

Prepared by

### Illinois State Treasurer

And







The Illinois Funds

**IGFOA** 

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# MUNICIPALITIES (65 ILCS 5/) Illinois Municipal Code. (65 ILCS 5/Art. 3.1 Div. 35 heading) DIVISION 35. FUNCTIONS AND DUTIES OF CERTAIN MUNICIPAL OFFICERS

#### I. MUNICIPAL TREASURER'S STATUTES

TREASURER; DUTIES

TREASURER; REPORTS

TREASURER; DEPOSIT OF FUNDS

TREASURER; PERSONAL USE OF FUNDS
TREASURER; RECEIPTS AND EXPENDITURES

TREASURER; ANNUAL ACCOUNTS

TREASURER; COPY OF REPORT FILED WITH COLLECTOR

TREASURER; FAILURE TO FILE ACCOUNT
TREASURER; VIOLATIONS AND PENALTIES
TREASURER; SPECIAL ASSESSMENT FUNDS

#### Treasurer; Duties

(65 ILCS 5/3.1-35-40) (from Ch. 24, par. 3.1-35-40)

Sec. 3.1-35-40. Treasurer; duties.

- (a) The municipal treasurer shall receive all money belonging to the municipality and shall keep the treasurer's books and accounts in the manner prescribed by ordinance. These books and accounts shall always be subject to the inspection of any member of the corporate authorities. The municipality may, however, by ordinance designate a person or institution which, as bond trustee, shall receive from the county collector amounts payable to the municipality as taxes levied pursuant to a bond issuance.
- (b) The treasurer shall keep a separate account of each fund or appropriation and the debits and credits belonging to the fund or appropriation.
- (c) The treasurer shall give every person paying money into the treasury a receipt, specifying the date of payment and upon what account paid. The treasurer shall file copies of these receipts with the clerk, with the treasurer's monthly reports. If the treasurer has possession of money properly appropriated to the payment of any warrant lawfully drawn upon the treasurer, the treasurer shall pay the money specified in the warrant to the person designated by the warrant.

(Source: P.A. 87-1119.)

#### Treasurer; Reports

(65 ILCS 5/3.1-35-45) (from Ch. 24, par. 3.1-35-45)

Sec. 3.1-35-45. Treasurer; reports. At the end of every month, and oftener if required by the corporate authorities, the municipal treasurer shall render an account under oath to the corporate authorities, or to an officer designated by ordinance, showing the state of the treasury at the date of the account and the balance of money in the treasury. The treasurer shall accompany the account with a statement of all money received into the treasury and

on what account, together with all warrants redeemed and paid by the treasurer. On the day the treasurer renders an account, these warrants, with all vouchers held by the treasurer, shall be delivered to the municipal clerk and filed, together with the account, in the clerk's office. All paid warrants shall be marked "paid". The treasurer shall keep a register of all warrants, which shall describe each warrant, showing its date, amount, and number, the fund from which paid, the name of the person to whom paid, and when paid. (Source: P.A. 87-1119.)

#### Treasurer; Deposit of Funds

(65 ILCS 5/3.1-35-50) (from Ch. 24, par. 3.1-35-50)

Sec. 3.1-35-50. Treasurer; deposit of funds.

- (a) The municipal treasurer may be required to keep all funds and money in the treasurer's custody belonging to the municipality in places of deposit designated by ordinance. When requested by the municipal treasurer, the corporate authorities shall designate one or more banks or savings and loan associations in which may be kept the funds and money of the municipality in the custody of the treasurer. When a bank or savings and loan association has been designated as a depository, it shall continue as a depository until 10 days have elapsed after a new depository is designated and has qualified by furnishing the statements of resources and liabilities as required by this Section. When a new depository is designated, the corporate authorities shall notify the sureties of the municipal treasurer of that fact in writing at least 5 days before the transfer of funds. The treasurer shall be discharged from responsibility for all funds or money that the treasurer deposits in a designated bank or savings and loan association while the funds and money are so deposited.
- (b) The municipal treasurer may require any bank or savings and loan association to deposit with the treasurer securities or mortgages that have a market value at least equal to the amount of the funds or moneys of the municipality deposited with the bank or savings and loan association that exceeds the insurance limitation provided by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.
- (c) The municipal treasurer may enter into agreements of any definite or indefinite term regarding the deposit, redeposit, investment, reinvestment, or withdrawal of municipal funds.
- (d) Notwithstanding any other provision of this Act or any other law, each official custodian of municipal funds, including, without limitation, each municipal treasurer or finance director or each person properly designated as the official custodian for municipal funds, including, without limitation, each person properly designated as official custodian for funds held by an intergovernmental risk management entity, self-insurance pool, waste management agency, or other intergovernmental entity composed solely of participating municipalities, is permitted to:
  - (i) combine moneys from more than one fund of a single municipality, risk management entity, self-insurance pool, or other intergovernmental entity composed solely of participating municipalities for the purpose of investing such moneys;

- (ii) join with any other official custodians or treasurers of municipal, intergovernmental risk management entity, self-insurance pool, waste management agency, or other intergovernmental entity composed solely of participating municipalities for the purpose of jointly investing the funds of which the official custodians or treasurers have custody; and
- (iii) enter into agreements of any definite or indefinite term regarding the redeposit, investment, or withdrawal of municipal, risk management entity, self-insurance agency, waste management agency, or other intergovernmental entity funds.

When funds are combined for investment purposes as authorized in this Section, the moneys combined for those purposes shall be accounted for separately in all respects, and the earnings from such investment shall be separately and individually computed, recorded, and credited to the fund, municipality, intergovernmental risk management entity, self-insurance pool, waste management agency, or other intergovernmental entity, as the case may be, for which the investment was acquired.

Joint investments shall be made only in investments authorized by law for investment of municipal funds. The grant of authority contained in this subsection is cumulative, supplemental, and in addition to all other power or authority granted by any other law and shall not be construed as a limitation of any power and authority otherwise granted.

(e) No bank or savings and loan association shall receive public funds as permitted by this Section unless it has complied with the requirements established by Section 6 of the Public Funds Investment Act.

(Source: P.A. 89-592, eff. 8-1-96.)

#### Treasurer; Personal Use of Funds

(65 ILCS 5/3.1-35-55) (from Ch. 24, par. 3.1-35-55)

Sec. 3.1-35-55. Treasurer; personal use of funds. The municipal treasurer shall keep all money belonging to the municipality and in the treasurer's custody separate and distinct from the treasurer's own money and shall not use, either directly or indirectly, the municipality's money or warrants for the personal use and benefit of the treasurer or of any other person. Any violation of this provision shall subject the treasurer to immediate removal from office by the corporate authorities, who may declare the treasurer's office vacant.

(Source: P.A. 87-1119.)

#### <u>Treasurer</u>; <u>Receipts and Expenditures</u>

(65 ILCS 5/3.1-35-60) (from Ch. 24, par. 3.1-35-60)

Sec. 3.1-35-60. Treasurer; receipts and expenditures. The municipal treasurer shall report to the corporate authorities, as often as they require, a full and detailed account of all receipts and expenditures of the municipality, as shown by the treasurer's books, up to the time of the report.

(Source: P.A. 87-1119.)

#### Treasurer; Annual Accounts

(65 ILCS 5/3.1-35-65) (from Ch. 24, par. 3.1-35-65)

Sec. 3.1-35-65. Treasurer; annual accounts.

- (a) Within 6 months after the end of each fiscal year, the treasurer of each municipality having a population of less than 500,000, as determined by the last preceding federal census, shall annually prepare and file with the clerk of the municipality an account of moneys received and expenditures incurred during the preceding fiscal year as specified in this Section. The treasurer shall show in the account:
  - (1) All moneys received by the municipality, indicating the total amounts, in the aggregate, received in each account of the municipality, with a general statement concerning the source of receipts. In this paragraph, the term "account" does not mean each individual taxpayer, householder, licensee, utility user, or other persons whose payments to the municipality are credited to a general account.
  - (2) Except as provided in paragraph (3) of this subsection (a), all moneys paid out by the municipality where the total amount paid during the fiscal year exceeds \$2,500 in the aggregate, giving the name of each person to whom moneys were paid and the total paid to each person.
  - (3) All moneys paid out by the municipality as compensation for personal services, giving the name of each person to whom moneys were paid and the total amount paid to each person from each account, except that the treasurer may elect to report the compensation for personal services of all personnel by name, listing each employee in one of the following categories:
    - A) under \$25,000.00;
    - B) \$25,000.00 to \$49,999.99;
    - C) \$50,000.00 to \$74,999.99;
    - D) \$75,000.00 to \$99,999.99;
    - E) \$100,000.00 to \$124,999.99; or
    - F) \$125,000.00 and over.
  - 4) A summary statement of operations for all funds and account groups of the municipality, as excerpted from the annual financial report as filed with the appropriate State agency.
- (b) Upon receipt of the account from the municipal treasurer, the municipal clerk shall publish the account at least once in one or more newspapers published in the municipality or, if no newspaper is published in the municipality, then in one or more newspapers having a general circulation within the municipality. In municipalities with a population of less than 500 in which no newspaper is published, however, publication may be made by posting a copy of the account in 3 prominent places within the municipality.

(Source: P.A. 92-354, eff. 8-15-01.)

#### Treasurer; Copy of Report Filed with Collector

(65 ILCS 5/3.1-35-70) (from Ch. 24, par. 3.1-35-70)

Sec. 3.1-35-70. Treasurer; copy of report filed with collector. Within 6 months after the end of each fiscal year the treasurer of each municipality, as provided in Section 3.1-35-65,

shall file with each town or county collector of taxes who collects taxes levied by the municipality a copy of the annual account that is required to be filed with and published by the municipal clerk, as provided in Section 3.1-35-65, together with an affidavit of the municipal clerk stating that the copy is a true and correct copy of the annual account filed with the clerk, that it was published or posted as required by Section 3.1-35-65, the date of the filing and publication or posting, and, if published, the newspaper in which it was published.

(Source: P.A. 87-1119.)

#### Treasurer; Failure to File Account

(65 ILCS 5/3.1-35-75) (from Ch. 24, par. 3.1-35-75)

Sec. 3.1-35-75. Treasurer; failure to file account. If a municipal treasurer fails to file the annual account and affidavit with the town or county collector within 6 months after the end of a fiscal year as required by Section 3.1-35-70, the town or county collector, as the case may be, shall withhold payment to the treasurer of any and all moneys due the municipality after the expiration of that 6 month period and until the annual account and affidavit are received by the collector. The failure of a municipal treasurer or municipal clerk to comply with the provisions of Sections 3.1-35-65 and 3.1-35-70 within 6 months after the end of a fiscal year shall not preclude the treasurer or clerk or the other officers of the municipality from preparing, publishing or posting, and filing the annual account and affidavit after the expiration of that 6 month period. If the clerk, treasurer, or other officers later comply with the provisions of this Division 35, the town or county collector, as the case may be, shall pay over to the municipal treasurer the moneys withheld by the collector immediately upon the filing of the annual account and affidavit with the collector. (Source: P.A. 87-1119.)

#### <u>Treasurer</u>; <u>Violations and Penalties</u>

(65 ILCS 5/3.1-35-80) (from Ch. 24, par. 3.1-35-80)

Sec. 3.1-35-80. Violations and penalties. A public officer who fails, neglects, or refuses to discharge any duty imposed on that officer by Sections 3.1-35-65 through 3.1-35-75, or who violates any provisions of Sections 3.1-35-65 through 3.1-35-80, is guilty of a petty offense and upon conviction shall be fined not less than \$25 nor more than \$100, in addition to any other penalties prescribed by law.

(Source: P.A. 87-1119.)

#### Treasurer; Special Assessment Funds

(65 ILCS 5/3.1-35-85) (from Ch. 24, par. 3.1-35-85)

Sec. 3.1-35-85. Treasurer; special assessment funds. All money received on a special assessment shall be held by the municipal treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made, and the money shall be used for no other purpose, except to reimburse the municipality for money expended for the improvement.

(Source: P.A. 87-1119.)

#### **FINANCE**

(30 ILCS 235/) Public Funds Investment Act.

#### II. PUBLIC FUNDS INVESTMENT ACT

SHORT TITLE

"PUBLIC FUNDS" AND "PUBLIC AGENCY" DEFINED

**AUTHORIZED INVESTMENTS** 

**INVESTMENT POLICY** 

UNIT OF LOCAL GOVERNMENT; DEPOSIT AT REDUCED RATE OF INTEREST

**DESIGNATION OF PAYEE AND FUND - REGISTRATION** 

SAFEKEEPING AND DISPOSITION OF SECURITIES - PAYMENTS

**CONSTRUCTION OF ACT** 

REPORT OF FINANCIAL INSTITUTIONS

FEDERALLY INSURED DEPOSITS AT ILLINOIS FINANCIAL INSTITUTIONS

INVESTMENTS OR DEPOSITS WITH OR IN MINORITY-OWNED FINANCIAL

**INSTITUTIONS** 

CONSIDERATION OF FINANCIAL INSTITUTION'S COMMITMENT TO ITS

**COMMUNITY** 

#### **Short Title**

(30 ILCS 235/0.01) (from Ch. 85, par. 900)

Sec. 0.01. Short title. This Act may be cited as the Public Funds Investment Act.

(Source: P.A. 86-1324.)

#### "Public Funds" and "Public Agency" Defined

(30 ILCS 235/1) (from Ch. 85, par. 901)

Sec. 1. The words "public funds", as used in this Act, mean current operating funds, special funds, interest and sinking funds, and funds of any kind or character belonging to or in the custody of any public agency.

The words "public agency", as used in this Act, mean the State of Illinois, the various counties, townships, cities, towns, villages, school districts, educational service regions, special road districts, public water supply districts, fire protection districts, drainage districts, levee districts, sewer districts, housing authorities, the Illinois Bank Examiners' Education Foundation, the Chicago Park District, and all other political corporations or subdivisions of the State of Illinois, now or hereafter created, whether herein specifically mentioned or not. This Act does not apply to the Illinois Prepaid Tuition Trust Fund, private funds collected by the Illinois Conservation Foundation, or pension funds or retirement systems established under the Illinois Pension Code, except as otherwise provided in that Code.

(Source: P.A. 91-669, eff. 1-1-00; 92-797, eff. 8-15-02.)

#### **Authorized Investments**

(30 ILCS 235/2) (from Ch. 85, par. 902)

Sec. 2. Authorized investments.

- (a) Any public agency may invest any public funds as follows:
  - (iv) in bonds, notes, certificates of indebtedness, treasury bills or other securities now or hereafter issued, which are guaranteed by the full faith and credit of the United States of America as to principal and interest;
  - (v) in bonds, notes, debentures, or other similar obligations of the United States of America or its agencies;
  - (vi) in interest-bearing savings accounts, interest-bearing certificates of deposit or interest-bearing time deposits or any other investments constituting direct obligations of any bank as defined by the Illinois Banking Act;
  - (vii) in short term obligations of corporations organized in the United States with assets exceeding \$500,000,000 if (i) such obligations are rated at the time of purchase at one of the 3 highest classifications established by at least 2 standard rating services and which mature not later than 180 days from the date of purchase, (ii) such purchases do not exceed 10% of the corporation's outstanding obligations and (iii) no more than one-third of the public agency's funds may be invested in short term obligations of corporations; or
  - (viii) in money market mutual funds registered under the Investment Company Act of 1940, provided that the portfolio of any such money market mutual fund is limited to obligations described in paragraph (1) or (2) of this subsection and to agreements to repurchase such obligations.
- (a-1) In addition to any other investments authorized under this Act, a municipality may invest its public funds in interest bearing bonds of any county, township, city, village, incorporated town, municipal corporation, or school district, of the State of Illinois, of any other state, or of any political subdivision or agency of the State of Illinois or of any other state, whether the interest earned thereon is taxable or tax-exempt under federal law. The bonds shall be registered in the name of the municipality or held under a custodial agreement at a bank. The bonds shall be rated at the time of purchase within the 4 highest general classifications established by a rating service of nationally recognized expertise in rating bonds of states and their political subdivisions.
- (b) Investments may be made only in banks which are insured by the Federal Deposit Insurance Corporation. Any public agency may invest any public funds in short term discount obligations of the Federal National Mortgage Association or in shares or other forms of securities legally issuable by savings banks or savings and loan associations incorporated under the laws of this State or any other state or under the laws of the United States. Investments may be made only in those savings banks or savings and loan associations the shares, or investment certificates of which are insured by the Federal Deposit Insurance Corporation. Any such securities may be purchased at the offering or market price thereof at the time of such purchase. All such securities so purchased shall mature or be redeemable on a date or dates prior to the time when, in the judgment of such governing authority, the public funds so invested will be required for expenditure by such public agency or its governing authority. The expressed judgment of any such governing authority

- as to the time when any public funds will be required for expenditure or be redeemable is final and conclusive. Any public agency may invest any public funds in dividend-bearing share accounts, share certificate accounts or class of share accounts of a credit union chartered under the laws of this State or the laws of the United States; provided, however, the principal office of any such credit union must be located within the State of Illinois. Investments may be made only in those credit unions the accounts of which are insured by applicable law.
- (c) For purposes of this Section, the term "agencies of the United States of America" includes: (i) the federal land banks, federal intermediate credit banks, banks for cooperative, federal farm credit banks, or any other entity authorized to issue debt obligations under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and Acts amendatory thereto; (ii) the federal home loan banks and the federal home loan mortgage corporation; and (iii) any other agency created by Act of Congress.
- (d) Except for pecuniary interests permitted under subsection (f) of Section 3-14-4 of the Illinois Municipal Code or under Section 3.2 of the Public Officer Prohibited Practices Act, no person acting as treasurer or financial officer or who is employed in any similar capacity by or for a public agency may do any of the following:
  - (1) have any interest, directly or indirectly, in any investments in which the agency is authorized to invest.
  - (2) have any interest, directly or indirectly, in the sellers, sponsors, or managers of those investments.
  - (3) receive, in any manner, compensation of any kind from any investments in which the agency is authorized to invest.
- (e) Any public agency may also invest any public funds in a Public Treasurers' Investment Pool created under Section 17 of the State Treasurer Act. Any public agency may also invest any public funds in a fund managed, operated, and administered by a bank, subsidiary of a bank, or subsidiary of a bank holding company or use the services of such an entity to hold and invest or advise regarding the investment of any public funds.
- (f) To the extent a public agency has custody of funds not owned by it or another public agency and does not otherwise have authority to invest such funds, the public agency may invest such funds as if they were its own. Such funds must be released to the appropriate person at the earliest reasonable time, but in no case exceeding 31 days, after the private person becomes entitled to the receipt of them. All earnings accruing on any investments or deposits made pursuant to the provisions of this Act shall be credited to the public agency by or for which such investments or deposits were made, except as provided otherwise in Section 4.1 of the State Finance Act or the Local Governmental Tax Collection Act, and except where by specific statutory provisions such earnings are directed to be credited to and paid to a particular fund.
- (g) A public agency may purchase or invest in repurchase agreements of government securities having the meaning set out in the Government Securities Act of 1986 subject to the provisions of said Act and the regulations issued thereunder. The government securities, unless registered or inscribed in the name of the public agency, shall be purchased through banks or trust companies authorized to do business in the State of Illinois.

- (h) Except for repurchase agreements of government securities which are subject to the Government Securities Act of 1986, no public agency may purchase or invest in instruments which constitute repurchase agreements, and no financial institution may enter into such an agreement with or on behalf of any public agency unless the instrument and the transaction meet the following requirements:
  - (1) The securities, unless registered or inscribed in the name of the public agency, are purchased through banks or trust companies authorized to do business in the State of Illinois.
  - (2) An authorized public officer after ascertaining which firm will give the most favorable rate of interest, directs the custodial bank to "purchase" specified securities from a designated institution. The "custodial bank" is the bank or trust company, or agency of government, which acts for the public agency in connection with repurchase agreements involving the investment of funds by the public agency. The State Treasurer may act as custodial bank for public agencies executing repurchase agreements. To the extent the Treasurer acts in this capacity, he is hereby authorized to pass through to such public agencies any charges assessed by the Federal Reserve Bank.
  - (3) A custodial bank must be a member bank of the Federal Reserve System or maintain accounts with member banks. All transfers of book-entry securities must be accomplished on a Reserve Bank's computer records through a member bank of the Federal Reserve System. These securities must be credited to the public agency on the records of the custodial bank and the transaction must be confirmed in writing to the public agency by the custodial bank.
  - (4) Trading partners shall be limited to banks or trust companies authorized to do business in the State of Illinois or to registered primary reporting dealers.
  - (5) The security interest must be perfected.
  - (6) The public agency enters into a written master repurchase agreement which outlines the basic responsibilities and liabilities of both buyer and seller.
  - (7) Agreements shall be for periods of 330 days or less.
  - (8) The authorized public officer of the public agency informs the custodial bank in writing of the maturity details of the repurchase agreement.
  - (9) The custodial bank must take delivery of and maintain the securities in its custody for the account of the public agency and confirm the transaction in writing to the public agency. The Custodial Undertaking shall provide that the custodian takes possession of the securities exclusively for the public agency; that the securities are free of any claims against the trading partner; and any claims by the custodian are subordinate to the public agency's claims to rights to those securities.
  - (10) The obligations purchased by a public agency may only be sold or presented for redemption or payment by the fiscal agent bank or trust company holding the obligations upon the written instruction of the public agency or officer authorized to make such investments.

- (11) The custodial bank shall be liable to the public agency for any monetary loss suffered by the public agency due to the failure of the custodial bank to take and maintain possession of such securities.
- (i) Notwithstanding the foregoing restrictions on investment in instruments constituting repurchase agreements the Illinois Housing Development Authority may invest in, and any financial institution with capital of at least \$250,000,000 may act as custodian for, instruments that constitute repurchase agreements, provided that the Illinois Housing Development Authority, in making each such investment, complies with the safety and soundness guidelines for engaging in repurchase transactions applicable to federally insured banks, savings banks, savings and loan associations or other depository institutions as set forth in the Federal Financial Institutions Examination Council Policy Statement Regarding Repurchase Agreements and any regulations issued, or which may be issued by the supervisory federal authority pertaining thereto and any amendments thereto; provided further that the securities shall be either (i) direct general obligations of, or obligations the payment of the principal of and/or interest on which are unconditionally guaranteed by, the United States of America or (ii) any obligations of any agency, corporation or subsidiary thereof controlled or supervised by and acting as an instrumentality of the United States Government pursuant to authority granted by the Congress of the United States and provided further that the security interest must be perfected by either the Illinois Housing Development Authority, its custodian or its agent receiving possession of the securities either physically or transferred through a nationally recognized book entry system.
- (j) In addition to all other investments authorized under this Section, a community college district may invest public funds in any mutual funds that invest primarily in corporate investment grade or global government short term bonds. Purchases of mutual funds that invest primarily in global government short term bonds shall be limited to funds with assets of at least \$100 million and that are rated at the time of purchase as one of the 10 highest classifications established by a recognized rating service. The investments shall be subject to approval by the local community college board of trustees. Each community college board of trustees shall develop a policy regarding the percentage of the college's investment portfolio that can be invested in such funds.

Nothing in this Section shall be construed to authorize an intergovernmental risk management entity to accept the deposit of public funds except for risk management purposes.

(Source: P.A. 93-360, eff. 7-24-03.)

#### **Investment Policy**

(30 ILCS 235/2.5)

Sec. 2.5. Investment policy.

(a) Investment of public funds by a public agency shall be governed by a written investment policy adopted by the public agency. The level of detail and complexity of the investment policy shall be appropriate to the nature of the funds, the purpose for the funds, and the amount of the public funds within the investment portfolio. The policy shall address safety of principal, liquidity of funds, and return on

investment and shall require that the investment portfolio be structured in such manner as to provide sufficient liquidity to pay obligations as they come due. In addition, the investment policy shall include or address the following:

- (1) a listing of authorized investments;
- (2) a rule, such as the "prudent person rule", establishing the standard of care that must be maintained by the persons investing the public funds;
- (3) investment guidelines that are appropriate to the nature of the funds, the purpose for the funds, and the amount of the public funds within the investment portfolio;
- (4) a policy regarding diversification of the investment portfolio that is appropriate to the nature of the funds, the purpose for the funds, and the amount of the public funds within the investment portfolio;
- (5) guidelines regarding collateral requirements, if any, for the deposit of public funds in a financial institution made pursuant to this Act, and, if applicable, guidelines for contractual arrangements for the custody and safekeeping of that collateral;
- (6) a policy regarding the establishment of a system of internal controls and written operational procedures designed to prevent losses of funds that might arise from fraud, employee error, misrepresentation by third parties, or imprudent actions by employees of the entity;
- (7) identification of the chief investment officer who is responsible for establishing the internal controls and written procedures for the operation of the investment program;
- (8) performance measures that are appropriate to the nature of the funds, the purpose for the funds, and the amount of the public funds within the investment portfolio;
- (9) a policy regarding appropriate periodic review of the investment portfolio, its effectiveness in meeting the public agency's needs for safety, liquidity, rate of return, and diversification, and its general performance;
- a policy establishing at least quarterly written reports of investment activities by the public agency's chief financial officer for submission to the governing body and chief executive officer of the public agency. The reports shall include information regarding securities in the portfolio by class or type, book value, income earned, and market value as of the report date;
- (11) a policy regarding the selection of investment advisors, money managers, and financial institutions; and
- (12) a policy regarding ethics and conflicts of interest.
- (b) For purposes of the State or a county, the investment policy shall be adopted by the elected treasurer and presented to the chief executive officer and the governing body. For purposes of any other public agency, the investment policy shall be adopted by the governing body of the public agency.
- (c) The investment policy shall be made available to the public at the main administrative office of the public agency.

(d) The written investment policy required under this Section shall be developed and implemented by January 1, 2000.

(Source: P.A. 90-688, eff. 7-31-98.)

### <u>Unit of Local Government; Deposit at Reduced Rate of Interest</u> (30 ILCS 235/2.10)

Sec. 2.10. Unit of local government; deposit at reduced rate of interest. The treasurer of a unit of local government may, in his or her discretion, deposit public moneys of that unit of local government in a financial institution pursuant to an agreement that provides for a reduced rate of interest, provided that the institution agrees to expend an amount of money equal to the amount of the reduction for senior centers.

(Source: P.A. 93-246, eff. 7-22-03.)

#### Designation of Payee and Fund—Registration

(30 ILCS 235/3) (from Ch. 85, par. 903)

Sec. 3. If any securities, purchased under authority of Section 2 hereof, are issuable to a designated payee or to the order of a designated payee, then the public agency shall be so designated, and further, if such securities are purchased with money taken from a particular fund of a public agency, the name of such fund shall be added to that of such public agency. If any such securities are registerable, either as to principal or interest, or both, then such securities shall be so registered in the name of the public agency, and in the name of the fund to which they are to be credited.

(Source: Laws 1943, vol. 1, p. 951.)

#### Safekeeping and Disposition of Securities—Payments

(30 ILCS 235/4) (from Ch. 85, par. 904)

Sec. 4. All securities purchased under the authority of this Act shall be held for the benefit of the public agency which purchased them, and if purchased with money taken from a particular fund, such securities shall be credited to and deemed to be a part of such fund, and shall be held for the benefit thereof. All securities so purchased shall be deposited and held in a safe place by the person or persons having custody of the fund to which they are credited, and such person or persons are responsible upon his or their official bond or bonds for the safekeeping of all such securities. Any securities purchased by any such public agency under authority of this Act, may be sold at any time, at the then current market price thereof, by the governing authority of such public agency. Except as provided in Section 4.1 of "An Act in relation to State finance", all payments received as principal or interest, or otherwise, derived from any such securities shall be credited to the public agency and to the fund by or for which such securities were purchased.

(Source: P.A. 84-1378.)

#### Construction of Act

(30 ILCS 235/5) (from Ch. 85, par. 905)

Sec. 5. This Act, without reference to any other statute, shall be deemed full and complete authority for the investment of public funds, as hereinabove provided, and shall be construed as an additional and alternative method therefor.

(Source: Laws 1943, vol. 1, p. 951.)

#### Report of Financial Institutions

(30 ILCS 235/6) (from Ch. 85, par. 906)

(Text of Section from P.A. 93-205)

Sec. 6. Report of financial institutions.

- (a) No bank shall receive any public funds unless it has furnished the corporate authorities of a public agency submitting a deposit with copies of the last two sworn statements of resources and liabilities which the bank is required to furnish to the Commissioner of Banks and Real Estate or to the Comptroller of the Currency. Each bank designated as a depository for public funds shall, while acting as such depository, furnish the corporate authorities of a public agency with a copy of all statements of resources and liabilities which it is required to furnish to the Commissioner of Banks and Real Estate or to the Comptroller of the Currency; provided, that if such funds or moneys are deposited in a bank, the amount of all such deposits not collateralized or insured by an agency of the federal government shall not exceed 75% of the capital stock and surplus of such bank, and the corporate authorities of a public agency submitting a deposit shall not be discharged from responsibility for any funds or moneys deposited in any bank in excess of such limitation.
- (b) No savings bank or savings and loan association shall receive public funds unless it has furnished the corporate authorities of a public agency submitting a deposit with copies of the last 2 sworn statements of resources and liabilities which the savings bank or savings and loan association is required to furnish to the Commissioner of Banks and Real Estate or the Federal Deposit Insurance Corporation. Each savings bank or savings and loan association designated as a depository for public funds shall, while acting as such depository, furnish the corporate authorities of a public agency with a copy of all statements of resources and liabilities which it is required to furnish to the Commissioner of Banks and Real Estate or the Federal Deposit Insurance Corporation; provided, that if such funds or moneys are deposited in a savings bank or savings and loan association, the amount of all such deposits not collateralized or insured by an agency of the federal government shall not exceed 75% of the net worth of such savings bank or savings and loan association as defined by the Federal Deposit Insurance Corporation, and the corporate authorities of a public agency submitting a deposit shall not be discharged from responsibility for any funds or moneys deposited in any savings bank or savings and loan association in excess of such limitation.
- (c) No credit union shall receive public funds unless it has furnished the corporate authorities of a public agency submitting a share deposit with copies of the last two reports of examination prepared by or submitted to the Illinois Department of Financial Institutions or the National Credit Union Administration. Each credit union designated as a depository for public funds shall, while acting as such depository, furnish the corporate authorities of a public agency with a copy of all reports of examination prepared by or furnished to the Illinois Department of Financial Institutions or the National Credit Union Administration; provided that if such funds or moneys are invested in a credit union account, the amount of all such investments not collateralized or insured by an agency of the federal government or

- other approved share insurer shall not exceed 50% of the unimpaired capital and surplus of such credit union, which shall include shares, reserves and undivided earnings and the corporate authorities of a public agency making an investment shall not be discharged from responsibility for any funds or moneys invested in a credit union in excess of such limitation.
- (d) Whenever a public agency deposits any public funds in a financial institution, the public agency may enter into an agreement with the financial institution requiring any funds not insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration or other approved share insurer to be collateralized by securities, mortgages, letters of credit issued by a Federal Home Loan Bank, or loans covered by a State Guaranty under the Illinois Finance Authority Act in an amount equal to at least market value of that amount of funds deposited exceeding the insurance limitation provided by the Federal Deposit Insurance Corporation or the National Credit Union Administration or other approved share insurer.
- (e) Paragraphs (a), (b), (c), and (d) of this Section do not apply to the University of Illinois, Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, the Cooperative Computer Center and public community colleges.

(Source: P.A. 91-324, eff. 1-1-00; 91-773, eff. 6-9-00; 93-205, eff. 1-1-04.)

(Text of Section from P.A. 93-561)

Sec. 6. Report of financial institutions.

- (a) No bank shall receive any public funds unless it has furnished the corporate authorities of a public agency submitting a deposit with copies of the last two sworn statements of resources and liabilities which the bank is required to furnish to the Commissioner of Banks and Real Estate or to the Comptroller of the Currency. Each bank designated as a depository for public funds shall, while acting as such depository, furnish the corporate authorities of a public agency with a copy of all statements of resources and liabilities which it is required to furnish to the Commissioner of Banks and Real Estate or to the Comptroller of the Currency; provided, that if such funds or moneys are deposited in a bank, the amount of all such deposits not collateralized or insured by an agency of the federal government shall not exceed 75% of the capital stock and surplus of such bank, and the corporate authorities of a public agency submitting a deposit shall not be discharged from responsibility for any funds or moneys deposited in any bank in excess of such limitation.
- (b) No savings bank or savings and loan association shall receive public funds unless it has furnished the corporate authorities of a public agency submitting a deposit with copies of the last 2 sworn statements of resources and liabilities which the savings bank or savings and loan association is required to furnish to the Commissioner of Banks and Real Estate or the Federal Deposit Insurance Corporation. Each savings bank or savings and loan association designated as a depository for public funds shall, while acting as such depository, furnish the corporate authorities of a public agency with a copy of all statements of resources and liabilities which it is required to furnish to the Commissioner of Banks and Real Estate or the Federal Deposit

Insurance Corporation; provided, that if such funds or moneys are deposited in a savings bank or savings and loan association, the amount of all such deposits not collateralized or insured by an agency of the federal government shall not exceed 75% of the net worth of such savings bank or savings and loan association as defined by the Federal Deposit Insurance Corporation, and the corporate authorities of a public agency submitting a deposit shall not be discharged from responsibility for any funds or moneys deposited in any savings bank or savings and loan association in excess of such limitation.

- (c) No credit union shall receive public funds unless it has furnished the corporate authorities of a public agency submitting a share deposit with copies of the last two reports of examination prepared by or submitted to the Illinois Department of Financial Institutions or the National Credit Union Administration. Each credit union designated as a depository for public funds shall, while acting as such depository, furnish the corporate authorities of a public agency with a copy of all reports of examination prepared by or furnished to the Illinois Department of Financial Institutions or the National Credit Union Administration; provided that if such funds or moneys are invested in a credit union account, the amount of all such investments not collateralized or insured by an agency of the federal government or other approved share insurer shall not exceed 50% of the unimpaired capital and surplus of such credit union, which shall include shares, reserves and undivided earnings and the corporate authorities of a public agency making an investment shall not be discharged from responsibility for any funds or moneys invested in a credit union in excess of such limitation.
- (d) Whenever a public agency deposits any public funds in a financial institution, the public agency may enter into an agreement with the financial institution requiring any funds not insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration or other approved share insurer to be collateralized by any of the following classes of securities, provided there has been no default in the payment of principal or interest thereon:
  - (1) Bonds, notes, or other securities constituting direct and general obligations of the United States, the bonds, notes, or other securities constituting the direct and general obligation of any agency or instrumentality of the United States, the interest and principal of which is unconditionally guaranteed by the United States, and bonds, notes, or other securities or evidence of indebtedness constituting the obligation of a U.S. agency or instrumentality.
  - (2) Direct and general obligation bonds of the State of Illinois or of any other state of the United States.
  - (3) Revenue bonds of this State or any authority, board, commission, or similar agency thereof.
  - (4) Direct and general obligation bonds of any city, town, county, school district, or other taxing body of any state, the debt service of which is payable from general ad valorem taxes.
  - (5) Revenue bonds of any city, town, county, or school district of the State of Illinois.

- (6) Obligations issued, assumed, or guaranteed by the International Finance Corporation, the principal of which is not amortized during the life of the obligation, but no such obligation shall be accepted at more than 90% of its market value.
- (7) Illinois Affordable Housing Program Trust Fund Bonds or Notes as defined in and issued pursuant to the Illinois Housing Development Act.
- (8) In an amount equal to at least market value of that amount of funds deposited exceeding the insurance limitation provided by the Federal Deposit Insurance Corporation or the National Credit Union Administration or other approved share insurer: (i) securities, (ii) mortgages, (iii) letters of credit issued by a Federal Home Loan Bank, or (iv) loans covered by a State Guaranty under the Illinois Farm Development Act.
- (9) Certificates of deposit or share certificates issued to the depository institution pledging them as security. The public agency may require security in the amount of 125% of the value of the public agency deposit. Such certificate of deposit or share certificate shall:
  - (i) be fully insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Share Insurance Fund or issued by a depository institution which is rated within the 3 highest classifications established by at least one of the 2 standard rating services;
  - (ii) be issued by a financial institution having assets of \$15,000,000 or more; and
  - (iii) be issued by either a savings and loan association having a capital to asset ratio of at least 2%, by a bank having a capital to asset ratio of at least 6% or by a credit union having a capital to asset ratio of at least 4%.

The depository institution shall effect the assignment of the certificate of deposit or share certificate to the public agency and shall agree that, in the event the issuer of the certificate fails to maintain the capital to asset ratio required by this Section, such certificate of deposit or share certificate shall be replaced by additional suitable security.

- (e) The public agency may accept a system established by the State Treasurer to aggregate permissible securities received as collateral from financial institutions in a collateral pool to secure public deposits of the institutions that have pledged securities to the pool.
- (f) The public agency may at any time declare any particular security ineligible to qualify as collateral when, in the public agency's judgment, it is deemed desirable to do so.
- (g) Notwithstanding any other provision of this Section, as security a public agency may, at its discretion, accept a bond, executed by a company authorized to transact the kinds of business described in clause (g) of Section 4 of the Illinois Insurance Code, in an amount not less than the amount of the deposits required by this

- Section to be secured, payable to the public agency for the benefit of the People of the unit of government, in a form that is acceptable to the public agency.
- (h) Paragraphs (a), (b), (c), (d), (e), (f), and (g) of this Section do not apply to the University of Illinois, Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, the Cooperative Computer Center and public community colleges.

(Source: P.A. 91-324, eff. 1-1-00; 91-773, eff. 6-9-00; 93-561, eff. 1-1-04.)

### <u>Federally Insured Deposits at Illinois Financial Institutions</u> (30 ILCS 235/6.5)

Sec. 6.5. Federally insured deposits at Illinois financial institutions.

- (a) Notwithstanding any other provision of this Act or any other statute, whenever a public agency invests public funds in an interest-bearing savings account, interest-bearing certificate of deposit, or interest-bearing time deposit under Section 2 of this Act, the provisions of Section 6 of this Act and any other statutory requirements pertaining to the eligibility of a bank to receive or hold public deposits or to the pledging of collateral by a bank to secure public deposits do not apply to any bank receiving or holding all or part of the invested public funds if (i) the public agency initiates the investment at or through a bank located in Illinois and (ii) the invested public funds are at all time fully insured by an agency or instrumentality of the federal government.
- (b) Nothing in this Section is intended to:
  - (1) prohibit a public agency from requiring the bank at or through which the investment of public funds is initiated to provide the public agency with the information otherwise required by subsections (a), (b), or (c) of Section 6 of this Act as a condition of investing the public funds at or through that bank; or
  - (2) permit a bank to receive or hold public deposits if that bank is prohibited from doing so by any rule, sanction, or order issued by a regulatory agency or by a court.
- (c) For purposes of this Section, the term "bank" includes any person doing a banking business whether subject to the laws of this or any other jurisdiction.

(Source: P.A. 93-756, eff. 7-16-04.)

### <u>Investments or Deposits with or in Minority-owned Financial Institutions</u> (30 ILCS 235/7) (from Ch. 85, par. 907)

Sec. 7. When investing or depositing public funds, each custodian shall, to the extent permitted by this Act and by the lawful and reasonable performance of his custodial duties, invest or deposit such funds with or in minority-owned financial institutions within this State.

(Source: P.A. 84-754.)

### Consideration of Financial Institution's Commitment to its Community (30 ILCS 235/8)

Sec. 8. Consideration of financial institution's commitment to its community.

- (a) In addition to any other requirements of this Act, a public agency is authorized to consider the financial institution's record and current level of financial commitment to its local community when deciding whether to deposit public funds in that financial institution. The public agency may consider factors including, but not necessarily limited to:
  - (1) for financial institutions subject to the federal Community Reinvestment Act of 1977, the current and historical ratings that the financial institution has received, to the extent that those ratings are publicly available, under the federal Community Reinvestment Act of 1977;
  - (2) any changes in ownership, management, policies, or practices of the financial institution that may affect the level of the financial institution's commitment to its community;
  - (3) the financial impact that the withdrawal or denial of deposits of public funds might have on the financial institution;
  - (4) the financial impact to the public agency as a result of withdrawing public funds or refusing to deposit additional public funds in the financial institution; and
  - (5) any additional burden on the resources of the public agency that might result from ceasing to maintain deposits of public funds at the financial institution under consideration.
- (b) Nothing in this Section shall be construed as authorizing the public agency to conduct an examination or investigation of a financial institution or to receive information that is not publicly available and the disclosure of which is otherwise prohibited by law.

(Source: P.A. 93-251, eff. 7-1-04.)

#### III. HOME RULE AND NON-HOME RULE

HOME RULE UNIT LOSING POPULATION TO LESS THAN 25,000; POWERS, REFERENDUM OF STATUS AS HOME RULE UNIT SECTION 6 OF THE ILLINOIS CONSTITUTION: POWERS OF HOME RULE UNITS

<u>Home Rule Unit Losing Population to Less Than 25,000; Powers; Referendum of Status as Home Rule Unit</u>

(65 ILCS 5/1-1-9) (from Ch. 24, par. 1-1-9)

Sec. 1-1-9. If a municipality which is a home rule unit under Section 6 of Article VII of the Constitution by reason of having a population of more than 25,000 suffers a loss in population so that its population determined as provided in Section 1-7-2 is 25,000 or less, such municipality shall continue to have the powers of a home rule unit until it elects by referendum not to be a home rule unit.

Unless such a referendum is held sooner, or such a referendum has been held within the 2 calendar years preceding the year in which the population is determined to be 25,000 or less, the municipal clerk shall certify for submission to the voters of the municipality at the next general election following such determination of population, in the manner provided by the general election law, the proposition of whether the municipality shall elect not to be a home rule unit.

(Source: P.A. 82-94.)

#### Article VII, Section 6 of the Illinois Constitution

#### SECTION 6. POWERS OF HOME RULE UNITS

- (a) A County which has a chief executive officer elected by the electors of the county and any municipality which has a population of more than 25,000 are home rule units. Other municipalities may elect by referendum to become home rule units. Except as limited by this Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax; and to incur debt.
- (b) A home rule unit by referendum may elect not to be a home rule unit.
- (c) If a home rule county ordinance conflicts with an ordinance of a municipality, the municipal ordinance shall prevail within its jurisdiction.
- (d) A home rule unit does not have the power
  - (1) to incur debt payable from ad valorem property tax receipts maturing more than 40 years from the time it is incurred, or
  - (2) to define and provide for the punishment of a felony.
- (e) A home rule unit shall have only the power that the General Assembly may provide by law (1) to punish by imprisonment for more than six months or (2) to license for

- revenue or impose taxes upon or measured by income or earnings or upon occupations.
- (f) A home rule unit shall have the power subject to approval by referendum to adopt, alter or repeal a form of government provided by law, except that the form of government of Cook County shall be subject to the provisions of Section 3 of this Article. A home rule municipality shall have the power to provide for its officers, their manner of selection and terms of office only as approved by referendum or as otherwise authorized by law. A home rule county shall have the power to provide for its officers, their manner of selection and terms of office in the manner set forth in Section 4 of this Article.
- (g) The General Assembly by a law approved by the vote of three-fifths of the members elected to each house may deny or limit the power to tax and any other power or function of a home rule unit not exercised or performed by the State other than a power or function specified in subsection (l) of this section.
- (h) The General Assembly may provide specifically by law for the exclusive exercise by the State of any power or function of a home rule unit other than a taxing power or a power or function specified in subsection (l) of this Section.
- (i) Home rule units may exercise and perform concurrently with the State any power or function of a home rule unit to the extent that the General Assembly by law does not specifically limit the concurrent exercise or specifically declare the State's exercise to be exclusive.
- (j) The General Assembly may limit by law the amount of debt which home rule counties may incur and may limit by law approved by three-fifths of the members elected to each house the amount of debt, other than debt payable from ad valorem property tax receipts, which home rule municipalities may incur.
- (k) The General Assembly may limit by law the amount and require referendum approval of debt to be incurred by home rule municipalities, payable from ad valorem property tax receipts, only in excess of the following percentages of the assessed value of its taxable property: (1) if its population is 500,000 or more, an aggregate of three percent; (2) if its population is more than 25,000 and less than 500,000, an aggregate of one percent; and (3) if its population is 25,000 or less, an aggregate of one-half percent. Indebtedness which is outstanding on the effective date of this Constitution or which is thereafter approved by referendum or assumed from another unit of local government shall not be included in the foregoing percentage amounts.
- (l) The General Assembly may not deny or limit the power of home rule units (1) to make local improvements by special assessment and to exercise this power jointly with other counties and municipalities, and other classes of units of local government having that power on the effective date of this Constitution unless that power is subsequently denied by law to any such other units of local government or (2) to levy or impose additional taxes upon areas within their boundaries in the manner provided by law for the provision of special services to those areas and for the payment of debt incurred in order to provide those special services.
- (m) Powers and functions of home rule units shall be construed liberally. (Source: Illinois Constitution.)

#### **REVENUE**

(35 ILCS 200/) Property Tax Code. (35 ILCS 200/Art. 18 Div. 2 heading) Division 2. Truth in taxation

#### IV. TRUTH IN TAXATION

SHORT TITLE AND DEFINITIONS

**LEGISLATIVE PURPOSE** 

ESTIMATE OF TAXES TO BE LEVIED

RESTRICTION ON EXTENSION

MORE THAN 5% INCREASE; NOTICE AND HEARING REQUIRED

SCHOOL BOARD; PUBLIC NOTICE

NOTICE; PLACE OF PUBLICATION

TIME AND FORM OF NOTICE

NOTICE IF ADOPTED LEVY EXCEEDS PROPOSED LEVY

LIMITATION ON EXTENSION OF COUNTY CLERK

DOWNSTATE SCHOOL FINANCE AUTHORITY FOR ELEMENTARY DISTRICTS

<u>LAW</u>

MAYWOOD PUBLIC LIBRARY DISTRICT TAX LEVY VALIDATION (2002) LAW

EFFECT OF TRUTH IN TAXATION LAW

**DEFECTIVE PUBLICATION** 

#### Short title and definitions

(35 ILCS 200/18-55)

Sec. 18-55. Short title and definitions. This Division 2 may be cited as the Truth in Taxation Law. As used in this Division 2:

- (a) "Taxing district" has the meaning specified in Section 1-150 and includes home rule units, but from January 1, 2000 through December 31, 2002 does not include taxing districts that have territory in Cook County.
- (b) "Aggregate levy" means the annual corporate levy of the taxing district and those special purpose levies which are made annually (other than debt service levies and levies made for the purpose of paying amounts due under public building commission leases).
- (c) "Special purpose levies" include, but are not limited to, levies made on an annual basis for contributions to pension plans, unemployment and worker's compensation, or self-insurance.
- (d) "Debt service" means levies made by any taxing district pursuant to home rule authority, statute, referendum, ordinance, resolution, indenture, agreement, or contract to retire the principal or pay interest on bonds, notes, debentures or other financial instruments which evidence indebtedness.

(Source: P.A. 91-357, eff. 7-29-99; 91-523, eff. 1-1-00.)

#### Legislative purpose

(35 ILCS 200/18-56)

Sec. 18-56. Legislative purpose. The purpose of this Law is to require taxing districts to disclose by publication and to hold a public hearing on their intention to adopt an aggregate levy in amounts more than 105% of the amount of property taxes extended or estimated to be extended, including any amount abated by the taxing district prior to such extension, upon the final aggregate levy of the preceding year. (Source: P.A. 88-660, eff. 9-16-94.)

#### Estimate of taxes to be levied

(35 ILCS 200/18-60)

Sec. 18-60. Estimate of taxes to be levied. Not less than 20 days prior to the adoption of its aggregate levy, hereafter referred to as "levy", the corporate authority of each taxing district shall determine the amounts of money, exclusive of any portion of that levy attributable to the cost of conducting an election required by the general election law, hereafter referred to as "election costs", estimated to be necessary to be raised by taxation for that year upon the taxable property in its district.

(Source: P.A. 82-102; 88-455.)

#### Restriction on extension

(35 ILCS 200/18-65)

Sec. 18-65. Restriction on extension. Until it has complied with the notice and hearing provisions of this Article, no taxing district shall levy an amount of ad valorem tax which is more than 105% of the amount, exclusive of election costs, which has been extended or is estimated will be extended, plus any amount abated by the taxing district before extension, upon the final aggregate levy of the preceding year.

(Source: P.A. 86-957; 88-455.)

### More than 5% increase; notice and hearing required (35 ILCS 200/18-70)

Sec. 18-70. More than 5% increase; notice and hearing required. If the estimate of the corporate authority made as provided in Section 18-60 is more than 105% of the amount extended or estimated to be extended, plus any amount abated by the corporate authority prior to extension, upon the final aggregate levy of the preceding year, exclusive of election costs, the corporate authority shall give public notice of and hold a public hearing on its intent to adopt an aggregate levy in an amount which is more than 105% of the amount extended or estimated to be extended upon the final aggregate levy extensions, plus any amount abated, exclusive of election costs, for the preceding year. The hearing shall not coincide with the hearing on the proposed budget of the taxing district. (Source: P.A. 86-957; 88-455.)

#### School Board; Public Notice

(35 ILCS 200/18-72)

Sec. 18-72. A school board shall give public notice of and hold a public hearing on its intent to amend a certificate of tax levy under Section 17-11.1 of the School Code. (Source: P.A. 91-850, eff. 6-22-00.)

#### Notice; place of publication

(35 ILCS 200/18-75)

Sec. 18-75. Notice; place of publication. If the taxing district is located entirely in one county, the notice shall be published in an English language newspaper of general circulation published in the taxing district, or if there is no such newspaper, in an English language newspaper of general circulation published in the county and having circulation in the taxing district.

If the taxing district is located primarily in one county but extends into smaller portions of adjoining counties, the notice shall be published in a newspaper of general circulation published in the taxing district, or if there is no such newspaper, in a newspaper of general circulation published in each county in which any part of the district is located.

If the taxing district includes all or a large portion of 2 or more counties, the notice shall be published in a newspaper of general circulation published in each county in which any part of the district is located.

(Source: P.A. 86-957; 88-455.)

#### Time and form of notice

(35 ILCS 200/18-80)

Sec. 18-80. Time and form of notice. The notice shall appear not more than 14 days nor less than 7 days prior to the date of the public hearing. The notice shall be no less than 1/8 page in size, and the smallest type used shall be 12 point and shall be enclosed in a black border no less than 1/4 inch wide. The notice shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The notice shall be published in substantially the following form:

Notice of Proposed Property Tax Increase for ... (commonly known name of taxing district).

I. A public hearing to approve a proposed property tax levy increase for ... (legal name of the taxing district)... for ... (year) ... will be held on ... (date) ... at ... (time) ... at ... (location).

Any person desiring to appear at the public hearing and present testimony to the taxing district may contact ... (name, title, address and telephone number of an appropriate official).

II. The corporate and special purpose property taxes extended or abated for ... (preceding year) ... were ... (dollar amount of the final aggregate levy as extended, plus the amount abated by the taxing district prior to extension).

The proposed corporate and special purpose property taxes to be levied for ... (current year) ... are ... (dollar amount of the proposed aggregate levy). This represents a ... (percentage) ... increase over the previous year.

III. The property taxes extended for debt service and public building commission leases for ... (preceding year) ... were ... (dollar amount).

The estimated property taxes to be levied for debt service and public building commission leases for ... (current year) ... are ... (dollar amount). This represents a ... (percentage increase or decrease) ... over the previous year.

IV. The total property taxes extended or abated for ... (preceding year) ... were ... (dollar amount).

The estimated total property taxes to be levied for ... (current year) ... are ... (dollar amount). This represents a ... (percentage increase or decrease) ... over the previous year.

Any notice which includes any information not specified and required by this Article shall be an invalid notice.

All hearings shall be open to the public. The corporate authority of the taxing district shall explain the reasons for the proposed increase and shall permit persons desiring to be heard an opportunity to present testimony within reasonable time limits as it determines.

(Source: P.A. 92-382, eff. 8-16-01.)

#### Notice if adopted levy exceeds proposed levy

(35 ILCS 200/18-85)

Sec. 18-85. Notice if adopted levy exceeds proposed levy. If the final aggregate tax levy resolution or ordinance adopted is more than 105% of the amount, exclusive of election costs, which was extended or is estimated to be extended, plus any amount abated by the taxing district prior to extension, upon the final aggregate levy of the preceding year and is in excess of the amount of the proposed levy stated in the notice published under Section 18-70, or is more than 105% of that amount and no notice was required under Section 18-70, the corporate authority shall give public notice of its action within 15 days of the adoption of the levy in the following form:

Notice of Adopted Property Tax Increase for ... (commonly known name of taxing district).

I. The corporate and special purpose property taxes extended or abated for ... (preceding year) ... were ... (dollar amount of the final aggregate levy as extended).

The adopted corporate and special purpose property taxes to be levied for ... (current year) ... are ... (dollar amount of the proposed aggregate levy). This represents a ... (percentage) ... increase over the previous year.

II. The property taxes extended for debt service and public building commission leases for ... (preceding year) ... were ... (dollar amount).

The estimated property taxes to be levied for debt service and public building commission leases for ... (current year) ... are ... (dollar amount). This represents a ... (percentage increase or decrease) ... over the previous year.

III. The total property taxes extended or a bated for  $\dots$  (preceding year)  $\dots$  were  $\dots$  (dollar amount).

The estimated total property taxes to be levied for ... (current year) ... are ... (dollar amount). This represents a ... (percentage increase or decrease) ... over the previous year. (Source: P.A. 86-957; 88-455.)

#### <u>Limitation on extension of county clerk</u>

(35 ILCS 200/18-90)

Sec. 18-90. Limitation on extension of county clerk. The tax levy resolution or ordinance approved in the manner provided for in this Article shall be filed with the county clerk in the manner and at the time otherwise provided by law. No amount more than 105% of the amount, exclusive of election costs, which has been extended or is estimated to be extended, plus any amount abated by the taxing district prior to extension, upon the final aggregate levy of the preceding year shall be extended unless the tax levy ordinance or

resolution is accompanied by a certification by the presiding officer of the corporate authority certifying compliance with or inapplicability of the provisions of Sections 18-60 through 18-85. An amount extended under Section 18-107 in 1994 for a multi-township assessment district that did not file a certification of compliance with the Truth in Taxation Law may not exceed 105% of the amount, exclusive of election costs, that was extended in 1993, plus a proportional amount abated before extension, upon the levy or portion of a levy that is allocable to assessment purposes in each township that is a member of that multi-township assessment district.

(Source: P.A. 88-455; 88-660, eff. 9-16-94.)

#### Downstate School Finance Authority for Elementary Districts Law

(35 ILCS 200/18-92)

(Text of Section from P.A. 92-855)

Sec. 18-92. Downstate School Finance Authority for Elementary Districts Law. The provisions of the Truth in Taxation Law are subject to the Downstate School Finance Authority for Elementary Districts Law.

(Source: P.A. 92-855, eff. 12-6-02.)

#### Maywood Public Library District Tax Levy Validation (2002) Law

(Text of Section from P.A. 92-884)

Sec. 18-92. Maywood Public Library District Tax Levy Validation (2002) Law. The provisions of the Truth in Taxation Law are subject to the Maywood Public Library District Tax Levy Validation (2002) Law.

(Source: P.A. 92-884, eff. 1-13-03.)

#### Effect of Truth in Taxation Law

(35 ILCS 200/18-95)

Sec. 18-95. Effect of Truth in Taxation Law. Nothing contained in Sections 18-55 through 18-90 shall serve to extend or authorize any tax rate in excess of the maximum permitted by law nor prevent the reduction of any tax rate.

(Source: P.A. 82-102; 88-455.)

#### <u>Defective publication</u>

(35 ILCS 200/18-100)

Sec. 18-100. Defective publication. A levy of a taxing district shall not be invalidated for failure to comply with the provisions of this Article if the failure is attributable to the newspaper's failure to reproduce the information in the notice accurately or to publish the notice as directed by the taxing district.

(Source: P.A. 87-201; 88-455.)

## MUNICIPALITIES (65 ILCS 5/) Illinois Municipal Code. (65 ILCS 5/Art. 8.1 Div. 311heading) DIVISION 11. CERTAIN REVENUE TAXES

#### V. MUNICIPAL CODE REVENUE TAXES

HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX ACT

NON-HOME RULE MUNICIPALITIES; IMPOSITION OF TAXES

DEFINITION; PUBLIC INFRASTRUCTURE AND PROPERTY TAX RELIEF

**DEFINITION; PUBLIC INFRASTRUCTURE** 

NON-HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX ACT

NON-HOME RULE MUNICIPAL SERVICE OCCUPATION TAX ACT

NON-HOME RULE MUNICIPAL USE TAX ACT

NON-HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX; MUNICIPALITIES

BETWEEN 20,000 AND 25,000

NON-HOME RULE MUNICIPAL SERVICE OCCUPATION TAX; MUNICIPALITIES

BETWEEN 20,000 AND 25,000

NON-HOME RULE MUNICIPAL TAX RECISION

AUTHORITY TO TAX CERTAIN OCCUPATIONS OR PRIVILEGES

**CIGARETTE TAX** 

MOTOR VEHICLE OR MOTOR BICYCLE TAX OR FEE

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AGREEMENTS TO SHARE OR REBATE OCCUPATION TAXES

#### Home Rule Municipal Retailers' Occupation Tax Act

(65 ILCS 5/8-11-1) (from Ch. 24, par. 8-11-1)

Sec. 8-11-1. Home Rule Municipal Retailers' Occupation Tax Act. The corporate authorities of a home rule municipality may impose a tax upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this State's government, at retail in the municipality on the gross receipts from these sales made in the course of such business. If imposed, the tax shall only be imposed in 1/4% increments. On and after September 1, 1991, this additional tax may not be imposed on the sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription

and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics. The tax imposed by a home rule municipality under this Section and all civil penalties that may be assessed as an incident of the tax shall be collected and enforced by the State Department of Revenue. The certificate of registration that is issued by the Department to a retailer under the Retailers' Occupation Tax Act shall permit the retailer to engage in a business that is taxable under any ordinance or resolution enacted pursuant to this Section without registering separately with the Department under such ordinance or resolution or under this Section. The Department shall have full power to administer and enforce this Section; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, and compliance with, this Section the Department and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1, 1a, 1d, 1e, 1f, 1i, 1j, 1k, 1m, 1n, 2 through 2-65 (in respect to all provisions therein other than the State rate of tax), 2c, 3 (except as to the disposition of taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

No tax may be imposed by a home rule municipality under this Section unless the municipality also imposes a tax at the same rate under Section 8-11-5 of this Act.

Persons subject to any tax imposed under the authority granted in this Section may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which sellers are required to collect under the Use Tax Act, pursuant to such bracket schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified and to the person named in the notification from the Department. The refund shall be paid by the State Treasurer out of the home rule municipal retailers' occupation tax fund.

The Department shall immediately pay over to the State Treasurer, ex officio, as trustee, all taxes and penalties collected hereunder. On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to named municipalities, the municipalities to be those from which retailers have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each municipality shall be the amount (not including credit memoranda) collected hereunder during the second preceding calendar month by the Department plus an amount the Department determines is necessary to offset any amounts that were erroneously paid to a different taxing body, and not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of such municipality, and not including any amount that the

Department determines is necessary to offset any amounts that were payable to a different taxing body but were erroneously paid to the municipality. Within 10 days after receipt by the Comptroller of the disbursement certification to the municipalities provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for the respective amounts in accordance with the directions contained in the certification.

In addition to the disbursement required by the preceding paragraph and in order to mitigate delays caused by distribution procedures, an allocation shall, if requested, be made within 10 days after January 14, 1991, and in November of 1991 and each year thereafter, to each municipality that received more than \$500,000 during the preceding fiscal year, (July 1 through June 30) whether collected by the municipality or disbursed by the Department as required by this Section. Within 10 days after January 14, 1991, participating municipalities shall notify the Department in writing of their intent to participate. In addition, for the initial distribution, participating municipalities shall certify to the Department the amounts collected by the municipality for each month under its home rule occupation and service occupation tax during the period July 1, 1989 through June 30, 1990. The allocation within 10 days after January 14, 1991, shall be in an amount equal to the monthly average of these amounts, excluding the 2 months of highest receipts. The monthly average for the period of July 1, 1990 through June 30, 1991 will be determined as follows: the amounts collected by the municipality under its home rule occupation and service occupation tax during the period of July 1, 1990 through September 30, 1990, plus amounts collected by the Department and paid to such municipality through June 30, 1991, excluding the 2 months of highest receipts. The monthly average for each subsequent period of July 1 through June 30 shall be an amount equal to the monthly distribution made to each such municipality under the preceding paragraph during this period, excluding the 2 months of highest receipts. The distribution made in November 1991 and each year thereafter under this paragraph and the preceding paragraph shall be reduced by the amount allocated and disbursed under this paragraph in the preceding period of July 1 through June 30. The Department shall prepare and certify to the Comptroller for disbursement the allocations made in accordance with this paragraph.

For the purpose of determining the local governmental unit whose tax is applicable, a retail sale by a producer of coal or other mineral mined in Illinois is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. This paragraph does not apply to coal or other mineral when it is delivered or shipped by the seller to the purchaser at a point outside Illinois so that the sale is exempt under the United States Constitution as a sale in interstate or foreign commerce.

Nothing in this Section shall be construed to authorize a municipality to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by this State.

An ordinance or resolution imposing or discontinuing a tax hereunder or effecting a change in the rate thereof shall be adopted and a certified copy thereof filed with the Department on or before the first day of June, whereupon the Department shall proceed to administer and enforce this Section as of the first day of September next following the adoption and filing. Beginning January 1, 1992, an ordinance or resolution imposing or discontinuing

the tax hereunder or effecting a change in the rate thereof shall be adopted and a certified copy thereof filed with the Department on or before the first day of July, whereupon the Department shall proceed to administer and enforce this Section as of the first day of October next following such adoption and filing. Beginning January 1, 1993, an ordinance or resolution imposing or discontinuing the tax hereunder or effecting a change in the rate thereof shall be adopted and a certified copy thereof filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce this Section as of the first day of January next following the adoption and filing. However, a municipality located in a county with a population in excess of 3,000,000 that elected to become a home rule unit at the general primary election in 1994 may adopt an ordinance or resolution imposing the tax under this Section and file a certified copy of the ordinance or resolution with the Department on or before July 1, 1994. The Department shall then proceed to administer and enforce this Section as of October 1, 1994. Beginning April 1, 1998, an ordinance or resolution imposing or discontinuing the tax hereunder or effecting a change in the rate thereof shall either (i) be adopted and a certified copy thereof filed with the Department on or before the first day of April, whereupon the Department shall proceed to administer and enforce this Section as of the first day of July next following the adoption and filing; or (ii) be adopted and a certified copy thereof filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce this Section as of the first day of January next following the adoption and filing.

When certifying the amount of a monthly disbursement to a municipality under this Section, the Department shall increase or decrease the amount by an amount necessary to offset any misallocation of previous disbursements. The offset amount shall be the amount erroneously disbursed within the previous 6 months from the time a misallocation is discovered.

Any unobligated balance remaining in the Municipal Retailers' Occupation Tax Fund on December 31, 1989, which fund was abolished by Public Act 85-1135, and all receipts of municipal tax as a result of audits of liability periods prior to January 1, 1990, shall be paid into the Local Government Tax Fund for distribution as provided by this Section prior to the enactment of Public Act 85-1135. All receipts of municipal tax as a result of an assessment not arising from an audit, for liability periods prior to January 1, 1990, shall be paid into the Local Government Tax Fund for distribution before July 1, 1990, as provided by this Section prior to the enactment of Public Act 85-1135; and on and after July 1, 1990, all such receipts shall be distributed as provided in Section 6z-18 of the State Finance Act.

As used in this Section, "municipal" and "municipality" means a city, village or incorporated town, including an incorporated town that has superseded a civil township.

This Section shall be known and may be cited as the Home Rule Municipal Retailers' Occupation Tax Act.

(Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

Non-Home Rule Municipalities; Imposition of Taxes (65 ILCS 5/8-11-1.1) (from Ch. 24, par. 8-11-1.1)

Sec. 8-11-1.1. Non-home rule municipalities; imposition of taxes.

- (a) The corporate authorities of a non-home rule municipality may, upon approval of the electors of the municipality pursuant to subsection (b) of this Section, impose by ordinance or resolution the tax authorized in Sections 8-11-1.3, 8-11-1.4 and 8-11-1.5 of this Act.
- (b) The corporate authorities of the municipality may by ordinance or resolution call for the submission to the electors of the municipality the question of whether the municipality shall impose such tax. Such question shall be certified by the municipal clerk to the election authority in accordance with Section 28-5 of the Election Code and shall be in a form in accordance with Section 16-7 of the Election Code.

If a majority of the electors in the municipality voting upon the question vote in the affirmative, such tax shall be imposed.

An ordinance or resolution imposing the tax of not more than 1/2 of 1% hereunder or discontinuing the same shall be adopted and a certified copy thereof, together with a certification that the ordinance or resolution received referendum approval in the case of the imposition of such tax, filed with the Department of Revenue, on or before the first day of June, whereupon the Department shall proceed to administer and enforce the additional tax or to discontinue the tax, as the case may be, as of the first day of September next following such adoption and filing. Beginning January 1, 1992, an ordinance or resolution imposing or discontinuing the tax hereunder shall be adopted and a certified copy thereof filed with the Department on or before the first day of July, whereupon the Department shall proceed to administer and enforce this Section as of the first day of October next following such adoption and filing. Beginning January 1, 1993, an ordinance or resolution imposing or discontinuing the tax hereunder shall be adopted and a certified copy thereof filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce this Section as of the first day of January next following such adoption and filing. Beginning October 1, 2002, an ordinance or resolution imposing or discontinuing the tax under this Section or effecting a change in the rate of tax must either (i) be adopted and a certified copy of the ordinance or resolution filed with the Department on or before the first day of April, whereupon the Department shall proceed to administer and enforce this Section as of the first day of July next following the adoption and filing; or (ii) be adopted and a certified copy of the ordinance or resolution filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce this Section as of the first day of January next following the adoption and filing. A non-home rule municipality may file a certified copy of an ordinance or resolution, with a certification that the ordinance or resolution received referendum approval in the case of the imposition of the tax, with the Department of Revenue, as required under this Section, only after October 2, 2000.

The tax authorized by this Section may not be more than 1/2 of 1% and may be imposed only in 1/4% increments.

(Source: P.A. 91-51, eff. 6-30-99; 91-649, eff. 1-1-00; 92-739, eff. 1-1-03.)

<u>Definition</u>; <u>Public Infrastructure and Property Tax Relief</u> (65 ILCS 5/8-11-1.2) (from Ch. 24, par. 8-11-1.2) (Text of Section from P.A. 92-739)

Sec. 8-11-1.2. Definition. As used in Sections 8-11-1.3, 8-11-1.4 and 8-11-1.5 of this Act:

- (a) "Public infrastructure" means municipal roads and streets, access roads, bridges, and sidewalks; waste disposal systems; and water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities.
- (b) "Property tax relief" means the action of a municipality to reduce the levy for real estate taxes or avoid an increase in the levy for real estate taxes that would otherwise have been required. Property tax relief or the avoidance of property tax must uniformly apply to all classes of property.

(Source: P.A. 91-51, eff. 6-30-99; 92-739, eff. 1-1-03.)

# Definition; Public Infrastructure

(Text of Section from P.A. 92-815)

Sec. 8-11-1.2. Definition. As used in Sections 8-11-1.3, 8-11-1.4 and 8-11-1.5 of this Act, "public infrastructure" means municipal roads and streets, access roads, bridges, and sidewalks; waste disposal systems; and water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities. For purposes of referenda authorizing the imposition of taxes by the City of DuQuoin under Sections 8-11-1.3, 8-11-1.4, and 8-11-1.5 of this Act that are approved in November, 2002, "public infrastructure" shall also include public schools. (Source: P.A. 91-51, eff. 6-30-99; 92-815, eff. 8-21-02.)

# Non-Home Rule Municipal Retailers' Occupation Tax Act

(65 ILCS 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

Sec. 8-11-1.3. Non-Home Rule Municipal Retailers' Occupation Tax Act. The corporate authorities of a non-home rule municipality may impose a tax upon all persons engaged in the business of selling tangible personal property, other than on an item of tangible personal property which is titled and registered by an agency of this State's Government, at retail in the municipality for expenditure on public infrastructure or for property tax relief or both as defined in Section 8-11-1.2 if approved by referendum as provided in Section 8-11-1.1, of the gross receipts from such sales made in the course of such business. The tax imposed may not be more than 1/2 of 1% and may be imposed only in 1/4% increments. The tax may not be imposed on the sale of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics. The tax imposed by a municipality pursuant to this Section and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The certificate of registration which is issued by the Department to a retailer under the Retailers' Occupation Tax Act shall permit such retailer to engage in a business which is taxable under any ordinance or resolution enacted pursuant to this Section without registering separately with the Department under such ordinance or resolution or under this Section. The Department shall have full power to administer and enforce this Section; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided, and to determine all rights to credit memoranda, arising on account of the erroneous payment of

tax or penalty hereunder. In the administration of, and compliance with, this Section, the Department and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions therein other than the State rate of tax), 2c, 3 (except as to the disposition of taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act as fully as if those provisions were set forth herein.

No municipality may impose a tax under this Section unless the municipality also imposes a tax at the same rate under Section 8-11-1.4 of this Code.

Persons subject to any tax imposed pursuant to the authority granted in this Section may reimburse themselves for their seller's tax liability hereunder by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which sellers are required to collect under the Use Tax Act, pursuant to such bracket schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named, in such notification from the Department. Such refund shall be paid by the State Treasurer out of the non-home rule municipal retailers' occupation tax fund.

The Department shall forthwith pay over to the State Treasurer, ex officio, as trustee, all taxes and penalties collected hereunder. On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to named municipalities, the municipalities to be those from which retailers have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each municipality shall be the amount (not including credit memoranda) collected hereunder during the second preceding calendar month by the Department plus an amount the Department determines is necessary to offset any amounts which were erroneously paid to a different taxing body, and not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of such municipality, and not including any amount which the Department determines is necessary to offset any amounts which were payable to a different taxing body but were erroneously paid to the municipality. Within 10 days after receipt, by the Comptroller, of the disbursement certification to the municipalities, provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for the respective amounts in accordance with the directions contained in such certification.

For the purpose of determining the local governmental unit whose tax is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. This paragraph does not apply to coal or other mineral when it is delivered or shipped by the

seller to the purchaser at a point outside Illinois so that the sale is exempt under the Federal Constitution as a sale in interstate or foreign commerce.

Nothing in this Section shall be construed to authorize a municipality to impose a tax upon the privilege of engaging in any business which under the constitution of the United States may not be made the subject of taxation by this State.

When certifying the amount of a monthly disbursement to a municipality under this Section, the Department shall increase or decrease such amount by an amount necessary to offset any misallocation of previous disbursements. The offset amount shall be the amount erroneously disbursed within the previous 6 months from the time a misallocation is discovered.

The Department of Revenue shall implement this amendatory Act of the 91st General Assembly so as to collect the tax on and after January 1, 2002.

As used in this Section, "municipal" and "municipality" means a city, village or incorporated town, including an incorporated town which has superseded a civil township.

This Section shall be known and may be cited as the "Non-Home Rule Municipal Retailers' Occupation Tax Act".

(Source: P.A. 91-51, eff. 6-30-99; 91-649, eff. 1-1-00; 92-739, eff. 1-1-03.)

# Non-Home Rule Municipal Service Occupation Tax Act

(65 ILCS 5/8-11-1.4) (from Ch. 24, par. 8-11-1.4)

Sec. 8-11-1.4. Non-Home Rule Municipal Service Occupation Tax Act. The corporate authorities of a non-home rule municipality may impose a tax upon all persons engaged, in such municipality, in the business of making sales of service for expenditure on public infrastructure or for property tax relief or both as defined in Section 8-11-1.2 if approved by referendum as provided in Section 8-11-1.1, of the selling price of all tangible personal property transferred by such servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service. The tax imposed may not be more than 1/2 of 1% and may be imposed only in 1/4% increments. The tax may not be imposed on the sale of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics. The tax imposed by a municipality pursuant to this Section and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The certificate of registration which is issued by the Department to a retailer under the Retailers' Occupation Tax Act or under the Service Occupation Tax Act shall permit such registrant to engage in a business which is taxable under any ordinance or resolution enacted pursuant to this Section without registering separately with the Department under such ordinance or resolution or under this Section. The Department shall have full power to administer and enforce this Section; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided, and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of,

and compliance with, this Section the Department and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in respect to all provisions therein other than the State rate of tax), 4 (except that the reference to the State shall be to the taxing municipality), 5, 7, 8 (except that the jurisdiction to which the tax shall be a debt to the extent indicated in that Section 8 shall be the taxing municipality), 9 (except as to the disposition of taxes and penalties collected, and except that the returned merchandise credit for this municipal tax may not be taken against any State tax), 10, 11, 12 (except the reference therein to Section 2b of the Retailers' Occupation Tax Act), 13 (except that any reference to the State shall mean the taxing municipality), the first paragraph of Section 15, 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

No municipality may impose a tax under this Section unless the municipality also imposes a tax at the same rate under Section 8-11-1.3 of this Code.

Persons subject to any tax imposed pursuant to the authority granted in this Section may reimburse themselves for their serviceman's tax liability hereunder by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which servicemen are authorized to collect under the Service Use Tax Act, pursuant to such bracket schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named, in such notification from the Department. Such refund shall be paid by the State Treasurer out of the municipal retailers' occupation tax fund.

The Department shall forthwith pay over to the State Treasurer, ex officio, as trustee, all taxes and penalties collected hereunder. On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to named municipalities, the municipalities to be those from which suppliers and servicemen have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each municipality shall be the amount (not including credit memoranda) collected hereunder during the second preceding calendar month by the Department, and not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of such municipality. Within 10 days after receipt, by the Comptroller, of the disbursement certification to the municipalities and the General Revenue Fund, provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for the respective amounts in accordance with the directions contained in such certification.

The Department of Revenue shall implement this amendatory Act of the 91st General Assembly so as to collect the tax on and after January 1, 2002.

Nothing in this Section shall be construed to authorize a municipality to impose a tax upon the privilege of engaging in any business which under the constitution of the United States may not be made the subject of taxation by this State.

As used in this Section, "municipal" or "municipality" means or refers to a city, village or incorporated town, including an incorporated town which has superseded a civil township.

This Section shall be known and may be cited as the "Non-Home Rule Municipal Service Occupation Tax Act".

(Source: P.A. 91-51, eff. 6-30-99; 91-649, eff. 1-1-00; 92-739, eff. 1-1-03.)

# Non-Home Rule Municipal Use Tax Act

(65 ILCS 5/8-11-1.5) (from Ch. 24, par. 8-11-1.5)

Sec. 8-11-1.5. Non-Home Rule Municipal Use Tax Act. The corporate authorities of a non-home rule municipality may impose a tax upon the privilege of using, in such municipality, any item of tangible personal property which is purchased at retail from a retailer, and which is titled or registered with an agency of this State's government, based on the selling price of such tangible personal property, as "selling price" is defined in the Use Tax Act, for expenditure on public infrastructure or for property tax relief or both as defined in Section 8-11-1.2, if approved by referendum as provided in Section 8-11-1.1. The tax imposed may not be more than 1/2 of 1% and may be imposed only in 1/4% increments. Such tax shall be collected from persons whose Illinois address for title or registration purposes is given as being in such municipality. Such tax shall be collected by the municipality imposing such tax. A non-home rule municipality may not impose and collect the tax prior to January 1, 2002.

This Section shall be known and may be cited as the "Non-Home Rule Municipal Use Tax Act".

(Source: P.A. 91-649, eff. 1-1-00; 92-739, eff. 1-1-03.)

# Non-Home Rule Municipal Retailers Occupation Tax; Municipalities between 20,000 and 25,000

(65 ILCS 5/8-11-1.6)

Sec. 8-11-1.6. Non-home rule municipal retailers occupation tax; municipalities between 20,000 and 25,000. The corporate authorities of a non-home rule municipality with a population of more than 20,000 but less than 25,000 that has, prior to January 1, 1987, established a Redevelopment Project Area that has been certified as a State Sales Tax Boundary and has issued bonds or otherwise incurred indebtedness to pay for costs in excess of \$5,000,000, which is secured in part by a tax increment allocation fund, in accordance with the provisions of Division 11-74.4 of this Code may, by passage of an ordinance, impose a tax upon all persons engaged in the business of selling tangible personal property, other than on an item of tangible personal property that is titled and registered by an agency of this State's Government, at retail in the municipality. This tax may not be imposed on the sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes, and

needles used by diabetics. If imposed, the tax shall only be imposed in .25% increments of the gross receipts from such sales made in the course of business. Any tax imposed by a municipality under this Sec. and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. An ordinance imposing a tax hereunder or effecting a change in the rate thereof shall be adopted and a certified copy thereof filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce this Section as of the first day of January next following such adoption and filing. The certificate of registration that is issued by the Department to a retailer under the Retailers' Occupation Tax Act shall permit the retailer to engage in a business that is taxable under any ordinance or resolution enacted under this Section without registering separately with the Department under the ordinance or resolution or under this Section. The Department shall have full power to administer and enforce this Section, to collect all taxes and penalties due hereunder, to dispose of taxes and penalties so collected in the manner hereinafter provided, and to determine all rights to credit memoranda, arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, and compliance with this Section, the Department and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers, and duties, and be subject to the same conditions, restrictions, limitations, penalties, and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions therein other than the State rate of tax), 2c, 3 (except as to the disposition of taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act as fully as if those provisions were set forth herein.

A tax may not be imposed by a municipality under this Section unless the municipality also imposes a tax at the same rate under Section 8-11-1.7 of this Act.

Persons subject to any tax imposed under the authority granted in this Section, may reimburse themselves for their seller's tax liability hereunder by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which sellers are required to collect under the Use Tax Act, pursuant to such bracket schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this Section to a claimant, instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named in the notification from the Department. The refund shall be paid by the State Treasurer out of the Non-Home Rule Municipal Retailers' Occupation Tax Fund, which is hereby created.

The Department shall forthwith pay over to the State Treasurer, ex officio, as trustee, all taxes and penalties collected hereunder. On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to named municipalities, the municipalities to be those from which retailers have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each municipality shall be the amount (not

including credit memoranda) collected hereunder during the second preceding calendar month by the Department plus an amount the Department determines is necessary to offset any amounts that were erroneously paid to a different taxing body, and not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of the municipality, and not including any amount that the Department determines is necessary to offset any amounts that were payable to a different taxing body but were erroneously paid to the municipality. Within 10 days after receipt by the Comptroller of the disbursement certification to the municipalities provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for the respective amounts in accordance with the directions contained in the certification.

For the purpose of determining the local governmental unit whose tax is applicable, a retail sale by a producer of coal or other mineral mined in Illinois is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. This paragraph does not apply to coal or other mineral when it is delivered or shipped by the seller to the purchaser at a point outside Illinois so that the sale is exempt under the federal Constitution as a sale in interstate or foreign commerce.

Nothing in this Section shall be construed to authorize a municipality to impose a tax upon the privilege of engaging in any business which under the constitution of the United States may not be made the subject of taxation by this State.

When certifying the amount of a monthly disbursement to a municipality under this Section, the Department shall increase or decrease the amount by an amount necessary to offset any misallocation of previous disbursements. The offset amount shall be the amount erroneously disbursed within the previous 6 months from the time a misallocation is discovered.

As used in this Section, "municipal" and "municipality" means a city, village, or incorporated town, including an incorporated town that has superseded a civil township. (Source: P.A. 88-334; 89-399, eff. 8-20-95.)

# Non-Home Rule Municipal Service Occupation Tax; Municipalities between 20,000 and 25,000

(65 ILCS 5/8-11-1.7)

Sec. 8-11-1.7. Non-home rule municipal service occupation tax; municipalities between 20,000 and 25,000. The corporate authorities of a non-home rule municipality with a population of more than 20,000 but less than 25,000 as determined by the last preceding decennial census that has, prior to January 1, 1987, established a Redevelopment Project Area that has been certified as a State Sales Tax Boundary and has issued bonds or otherwise incurred indebtedness to pay for costs in excess of \$5,000,000, which is secured in part by a tax increment allocation fund, in accordance with the provisions of Division 11-74.7 of this Code may, by passage of an ordinance, impose a tax upon all persons engaged in the municipality in the business of making sales of service. If imposed, the tax shall only be imposed in .25% increments of the selling price of all tangible personal property transferred by such servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service. This tax may not be imposed on

the sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes, and needles used by diabetics. The tax imposed by a municipality under this Sec. and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. An ordinance imposing a tax hereunder or effecting a change in the rate thereof shall be adopted and a certified copy thereof filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce this Section as of the first day of January next following such adoption and filing. The certificate of registration that is issued by the Department to a retailer under the Retailers' Occupation Tax Act or under the Service Occupation Tax Act shall permit the registrant to engage in a business that is taxable under any ordinance or resolution enacted under this Section without registering separately with the Department under the ordinance or resolution or under this Section. The Department shall have full power to administer and enforce this Section, to collect all taxes and penalties due hereunder, to dispose of taxes and penalties so collected in a manner hereinafter provided, and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of and compliance with this Section, the Department and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers, and duties, and be subject to the same conditions, restrictions, limitations, penalties and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in respect to all provisions therein other than the State rate of tax), 4 (except that the reference to the State shall be to the taxing municipality), 5, 7, 8 (except that the jurisdiction to which the tax shall be a debt to the extent indicated in that Section 8 shall be the taxing municipality), 9 (except as to the disposition of taxes and penalties collected, and except that the returned merchandise credit for this municipal tax may not be taken against any State tax), 10, 11, 12, (except the reference therein to Section 2b of the Retailers' Occupation Tax Act), 13 (except that any reference to the State shall mean the taxing municipality), the first paragraph of Sections 15, 16, 17, 18, 19, and 20 of the Service Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

A tax may not be imposed by a municipality under this Section unless the municipality also imposes a tax at the same rate under Section 8-11-1.6 of this Act.

Person subject to any tax imposed under the authority granted in this Section may reimburse themselves for their servicemen's tax liability hereunder by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax that servicemen are authorized to collect under the Service Use Tax Act, under such bracket schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named, in such notification from the Department. The refund shall be paid by the State Treasurer out of the Non-Home Rule Municipal Retailers' Occupation Tax Fund.

The Department shall forthwith pay over to the State Treasurer, ex officio, as trustee, all taxes and penalties collected hereunder. On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to named municipalities, the municipalities to be those from which suppliers and servicemen have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each municipality shall be the amount (not including credit memoranda) collected hereunder during the second preceding calendar month by the Department, and not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of such municipality. Within 10 days after receipt by the Comptroller of the disbursement certification to the municipalities and the General Revenue Fund, provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for the respective amounts in accordance with the directions contained in the certification.

When certifying the amount of a monthly disbursement to a municipality under this Section, the Department shall increase or decrease the amount by an amount necessary to offset any misallocation of previous disbursements. The offset amount shall be the amount erroneously disbursed within the previous 6 months from the time a misallocation is discovered.

Nothing in this Section shall be construed to authorize a municipality to impose a tax upon the privilege of engaging in any business which under the constitution of the United States may not be made the subject of taxation by this State.

(Source: P.A. 88-334; 89-399, eff. 8-20-95.)

# Non-Home Rule Municipal Tax Recision (65 ILCS 5/8-11-1.8)

Sec. 8-11-1.8. Non-home rule municipal tax recision. Whenever the corporate authorities of a non-home rule municipality with a population of more than 20,000 but less than 25,000 have imposed a municipal retailers occupation tax under Sec. 8-11-1.6 and a municipal service occupation tax under Section 8-11-1.7, the question of discontinuing the tax imposed under those Sections shall be submitted to the voters of the municipality at the next regularly scheduled election in accordance with the general election law upon a petition signed by not fewer than 10% of the registered voters in the municipality. The petition shall be filed with the clerk, of the municipality within one year of the passage of the ordinance imposing the tax; provided, the petition shall be filed not less than 60 days prior to the election at which the question is to be submitted to the voters of the municipality, and its validity shall be determined as provided by the general election law. The municipal clerk shall certify the question to the proper election officials, who shall submit the question to the voters.

Notice shall be given in the manner provided for in the general election law.

Referenda initiated under this Section shall be subject to the provisions and limitations of the general election law.

The proposition shall be in substantially the following form:

Shall the additional Municipal Service Occupation Tax and Municipal Retailers' Occupation Tax imposed within the municipal limits of (name of municipality) by Ordinance No. (state number) adopted on (date of adoption) be discontinued?

The votes shall be recorded as "Yes" or "No".

If a majority of all ballots cast on the proposition shall be in favor of discontinuing the tax, within one month after approval of the referendum discontinuing the tax the corporate authorities shall certify the results of the referenda to the Department of Revenue and shall also file with the Department a certified copy of an ordinance discontinuing the tax. Thereupon, the Department shall discontinue collection of tax as of the first day of January next following the referendum.

Except as herein otherwise provided, the referenda authorized by the terms of this Section shall be conducted in all respects in the manner provided by the general election law.

This Section shall apply only to taxes that have been previously imposed under the provisions of Sections 8-11-1.6 and 8-11-1.7.

(Source: P.A. 88-334; 89-399, eff. 8-20-95.)

# Authority to Tax Certain Occupations or Privileges

(65 ILCS 5/8-11-2) (from Ch. 24, par. 8-11-2)

Sec. 8-11-2. The corporate authorities of any municipality may tax any or all of the following occupations or privileges:

- 1. (Blank).
- 2. Persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of a municipality of 500,000 or fewer population, and not for resale, at a rate not to exceed 5% of the gross receipts therefrom.
- 2a. Persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of a municipality of over 500,000 population, and not for resale, at a rate not to exceed 8% of the gross receipts therefrom. If imposed, this tax shall be paid in monthly payments.
- 3. The privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the municipality at rates not to exceed the following maximum rates, calculated on a monthly basis for each purchaser:
  - (i) For the first 2,000 kilowatt-hours used or consumed in a month; 0.61 cents per kilowatt-hour;
  - (ii) For the next 48,000 kilowatt-hours used or consumed in a month; 0.40 cents per kilowatt-hour;
  - (iii) For the next 50,000 kilowatt-hours used or consumed in a month; 0.36 cents per kilowatt-hour;
  - (iv) For the next 400,000 kilowatt-hours used or consumed in a month; 0.35 cents per kilowatt-hour;
  - (v) For the next 500,000 kilowatt-hours used or consumed in a month; 0.34 cents per kilowatt-hour;

- (vi) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.32 cents per kilowatt-hour;
- (vii) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.315 cents per kilowatt-hour;
- (viii) For the next 5,000,000 kilowatt-hours used or consumed in a month; 0.31 cents per kilowatt-hour;
- (ix) For the next 10,000,000 kilowatt-hours used or consumed in a month; 0.305 cents per kilowatt-hour; and
- (x) For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month, 0.30 cents per kilowatt-hour.

If a municipality imposes a tax at rates lower than either the maximum rates specified in this Section or the alternative maximum rates promulgated by the Illinois Commerce Commission, as provided below, the tax rates shall be imposed upon the kilowatt hour categories set forth above with the same proportional relationship as that which exists among such maximum rates. Notwithstanding the foregoing, until December 31, 2008, no municipality shall establish rates that are in excess of rates reasonably calculated to produce revenues that equal the maximum total revenues such municipality could have received under the tax authorized by this subparagraph in the last full calendar year prior to the effective date of Section 65 of this amendatory Act of 1997; provided that this shall not be a limitation on the amount of tax revenues actually collected by such municipality.

Upon the request of the corporate authorities of a municipality, the Illinois Commerce Commission shall, within 90 days after receipt of such request, promulgate alternative rates for each of these kilowatt-hour categories that will reflect, as closely as reasonably practical for that municipality, the distribution of the tax among classes of purchasers as if the tax were based on a uniform percentage of the purchase price of electricity. A municipality that has adopted an ordinance imposing a tax pursuant to subparagraph 3 as it existed prior to the effective date of Section 65 of this amendatory Act of 1997 may, rather than imposing the tax permitted by this amendatory Act of 1997, continue to impose the tax pursuant to that ordinance with respect to gross receipts received from residential customers through July 31, 1999, and with respect to gross receipts from any non-residential customer until the first bill issued to such customer for delivery services in accordance with Section 16-104 of the Public Utilities Act but in no case later than the last bill issued to such customer before December 31, 2000. No ordinance imposing the tax permitted by this amendatory Act of 1997 shall be applicable to any non-residential customer until the first bill issued to such customer for delivery services in accordance with Section 16-104 of the Public Utilities Act but in no case later than the last bill issued to such non-residential customer before December 31, 2000.

4. Persons engaged in the business of distributing, supplying, furnishing, or selling water for use or consumption within the corporate limits of the municipality, and not for resale, at a rate not to exceed 5% of the gross receipts therefrom.

None of the taxes authorized by this Section may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the constitution and statutes of the United States, be made the subject of taxation by this State or any political sub-division thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, selling or transmitting gas, water, or electricity, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Section for those transactions that are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by Section 8-11-1; nor shall any tax authorized by this Section be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the municipality, whether privately or municipally owned or operated, or exercising the same privilege within the municipality.

Any of the taxes enumerated in this Section may be in addition to the payment of money, or value of products or services furnished to the municipality by the taxpayer as compensation for the use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayer's business.

- (a) If the corporate authorities of any home rule municipality have adopted an ordinance that imposed a tax on public utility customers, between July 1, 1971, and October 1, 1981, on the good faith belief that they were exercising authority pursuant to Section 6 of Article VII of the 1970 Illinois Constitution, that action of the corporate authorities shall be declared legal and valid, notwithstanding a later decision of a judicial tribunal declaring the ordinance invalid. No municipality shall be required to rebate, refund, or issue credits for any taxes described in this paragraph, and those taxes shall be deemed to have been levied and collected in accordance with the Constitution and laws of this State.
- (b) In any case in which (i) prior to October 19, 1979, the corporate authorities of any municipality have adopted an ordinance imposing a tax authorized by this Section (or by the predecessor provision of the "Revised Cities and Villages Act") and have explicitly or in practice interpreted gross receipts to include either charges added to customers' bills pursuant to the provision of paragraph (a) of Section 36 of the Public Utilities Act or charges added to customers' bills by taxpayers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in such paragraph (a) of Section 36 of that Act, and (ii) on or after October 19, 1979, a judicial tribunal has construed gross receipts to exclude all or part of those charges, then neither those municipality nor any taxpayer who paid the tax shall be required to rebate, refund, or issue credits for any tax imposed or charge collected from customers pursuant to the municipality's interpretation prior to October 19, 1979. This paragraph reflects a legislative finding that it would be contrary to the public interest to require a municipality or its taxpayers to refund taxes or charges attributable to the municipality's more inclusive interpretation of gross receipts prior to October 19, 1979, and is not intended to prescribe or limit judicial

- construction of this Section. The legislative finding set forth in this subsection does not apply to taxes imposed after the effective date of this amendatory Act of 1995.
- (c) The tax authorized by subparagraph 3 shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to an ordinance authorized by subparagraph 3 and any such tax collected by a person delivering electricity shall constitute a debt owed to the municipality by such person delivering the electricity, provided, that the person delivering electricity shall be allowed credit for such tax related to deliveries of electricity the charges for which are written off as uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax. For purposes of this subsection (c), any partial payment not specifically identified by the purchaser shall be deemed to be for the delivery of electricity. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity, in the manner prescribed by the municipality. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to 3% of the tax to reimburse the person delivering electricity for the expenses incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the municipality upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the municipality in the manner prescribed by the municipality. Persons delivering electricity who file returns pursuant to this paragraph (c) shall, at the time of filing such return, pay the municipality the amount of the tax collected pursuant to subparagraph 3.
- (d) For the purpose of the taxes enumerated in this Section: "Gross receipts" means the consideration received for distributing, supplying, furnishing or selling gas for use or consumption and not for resale, and the consideration received for distributing, supplying, furnishing or selling water for use or consumption and not for resale, and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith, and shall be determined without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever. "Gross receipts" shall not include that portion of the consideration received for distributing, supplying, furnishing, or selling gas or water to business enterprises described in paragraph (e) of this Section to the extent and during the period in which the exemption authorized by paragraph (e) is in effect or for school districts or units of local government described in paragraph (f) during the period in which the exemption authorized in paragraph (f) is in effect.

For utility bills issued on or after May 1, 1996, but before May 1, 1997, and for receipts from those utility bills, "gross receipts" does not include one-third of (i) amounts added to customers' bills under Section 9-222 of the Public Utilities Act,

or (ii) amounts added to customers' bills by taxpayers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities described in Section 9-222 of the Public Utilities Act. For utility bills issued on or after May 1, 1997, but before May 1, 1998, and for receipts from those utility bills, "gross receipts" does not include two-thirds of (i) amounts added to customers' bills under Section 9-222 of the Public Utilities Act, or (ii) amount added to customers' bills by taxpayers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities described in Section 9-222 of the Public Utilities Act. For utility bills issued on or after May 1, 1998, and for receipts from those utility bills, "gross receipts" does not include (i) amounts added to customers' bills under Section 9-222 of the Public Utilities Act, or (ii) amounts added to customers' bills by taxpayers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities described in Section 9-222 of the Public Utilities Act.

For purposes of this Section "gross receipts" shall not include amounts added to customers' bills under Section 9-221 of the Public Utilities Act. This paragraph is not intended to nor does it make any change in the meaning of "gross receipts" for the purposes of this Section, but is intended to remove possible ambiguities, thereby confirming the existing meaning of "gross receipts" prior to the effective date of this amendatory Act of 1995.

"Person" as used in this Section means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation, the State or any of its political subdivisions, any State university created by statute, or a receiver, trustee, guardian or other representative appointed by order of any court.

"Person maintaining a place of business in this State" shall mean any person having or maintaining within this State, directly or by a subsidiary or other affiliate, an office, generation facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent, or other representative operating within this State under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in this State permanently or temporarily, or whether such person, subsidiary or other affiliate is licensed or qualified to do business in this State.

"Public utility" shall have the meaning ascribed to it in Section 3-105 of the Public Utilities Act and shall include alternative retail electric suppliers as defined in Section 16-102 of that Act.

"Purchase at retail" shall mean any acquisition of electricity by a purchaser for purposes of use or consumption, and not for resale, but shall not include the use of electricity by a public utility directly in the generation, production, transmission, delivery or sale of electricity.

"Purchaser" shall mean any person who uses or consumes, within the corporate limits of the municipality, electricity acquired in a purchase at retail.

- (e) Any municipality that imposes taxes upon public utilities or upon the privilege of using or consuming electricity pursuant to this Section whose territory includes any part of an enterprise zone or federally designated Foreign Trade Zone or Sub-Zone may, by a majority vote of its corporate authorities, exempt from those taxes for a period not exceeding 20 years any specified percentage of gross receipts of public utilities received from, or electricity used or consumed by, business enterprises that:
  - (1) either (i) make investments that cause the creation of a minimum of 200 full-time equivalent jobs in Illinois, (ii) make investments of at least \$175,000,000 that cause the creation of a minimum of 150 full-time equivalent jobs in Illinois, or (iii) make investments that cause the retention of a minimum of 1,000 full-time jobs in Illinois; and
  - (2) are either (i) located in an Enterprise Zone established pursuant to the Illinois Enterprise Zone Act or (ii) Department of Commerce and Community Affairs designated High Impact Businesses located in a federally designated Foreign Trade Zone or Sub-Zone; and
  - (3) are certified by the Department of Commerce and Community Affairs as complying with the requirements specified in clauses (1) and (2) of this paragraph (e).

Upon adoption of the ordinance authorizing the exemption, the municipal clerk shall transmit a copy of that ordinance to the Department of Commerce and Community Affairs. The Department of Commerce and Community Affairs shall determine whether the business enterprises located in the municipality meet the criteria prescribed in this paragraph. If the Department of Commerce and Community Affairs determines that the business enterprises meet the criteria, it shall grant certification. The Department of Commerce and Community Affairs shall act upon certification requests within 30 days after receipt of the ordinance.

Upon certification of the business enterprise by the Department of Commerce and Community Affairs, the Department of Commerce and Community Affairs shall notify the Department of Revenue of the certification. The Department of Revenue shall notify the public utilities of the exemption status of the gross receipts received from, and the electricity used or consumed by, the certified business enterprises. Such exemption status shall be effective within 3 months after certification.

- (f) A municipality that imposes taxes upon public utilities or upon the privilege of using or consuming electricity under this Section and whose territory includes part of another unit of local government or a school district may by ordinance exempt the other unit of local government or school district from those taxes.
- (g) The amendment of this Section by Public Act 84-127 shall take precedence over any other amendment of this Section by any other amendatory Act passed by the 84th General Assembly before the effective date of Public Act 84-127.
- (h) In any case in which, before July 1, 1992, a person engaged in the business of transmitting messages through the use of mobile equipment, such as cellular

phones and paging systems, has determined the municipality within which the gross receipts from the business originated by reference to the location of its transmitting or switching equipment, then (i) neither the municipality to which tax was paid on that basis nor the taxpayer that paid tax on that basis shall be required to rebate, refund, or issue credits for any such tax or charge collected from customers to reimburse the taxpayer for the tax and (ii) no municipality to which tax would have been paid with respect to those gross receipts if the provisions of this amendatory Act of 1991 had been in effect before July 1, 1992, shall have any claim against the taxpayer for any amount of the tax.

(Source: P.A. 91-870, eff. 6-22-00; 92-474, eff. 8-1-02; 92-526, eff. 1-1-03.)

# Cigarette Tax

(65 ILCS 5/8-11-3) (from Ch. 24, par. 8-11-3)

Sec. 8-11-3. The corporate authorities of any municipality may tax persons engaged in the business of selling cigarettes at retail, at a rate of not exceeding one cent per package of 20 cigarettes and may provide for the administration and enforcement of such tax, and for the collection thereof from the persons subject to the tax, or their suppliers, or from taxpayers and suppliers, as the corporate authorities determine to be necessary or practicable for the effective administration of the tax.

The tax herein authorized may not be levied during any period in which there is in force a municipal retailers' occupation tax levied under authority of Section 8-11-1. The adoption of a municipal retailers' occupation tax shall not, however, affect liabilities, obligations and penalties incurred by any persons pursuant to an ordinance or resolution imposing a cigarette tax under this Section 8-11-3 and providing for its administration and enforcement, in respect to any period during which the cigarette tax has been in effect. Nor shall any suit, action or remedy instituted or authorized under the cigarette tax ordinance or resolution be abated or otherwise affected by the adoption of a municipal retailers' occupation tax ordinance or resolution.

(Source: Laws 1961, p. 576.)

# Motor Vehicle or Motor Bicycle Tax or Fee

(65 ILCS 5/8-11-4) (from Ch. 24, par. 8-11-4)

Sec. 8-11-4. Each owner of a motor vehicle or motor bicycle may be required by any such city, village, or town within which he resides to pay a regular tax or license fee for the use of such motor vehicle or motor bicycle.

In place of the regular license fee, any city, village or incorporated town may provide for a motor vehicle tax or license fee at a reduced rate for residents age 65 or over.

Any city, village or incorporated town of 40,000 or more inhabitants may appropriate monies annually from such funds, for the construction, maintenance and operation of testing stations for the inspection of equipment of motor vehicles as authorized by Section 11-40-2. The balance of such funds in cities, villages and incorporated towns of 40,000 or more inhabitants, and the total of such funds in other cities, incorporated towns and villages shall be used for the purpose of improving, paving, repairing or maintaining the

streets and other public roadways within such city, incorporated town or village, provided, that the actual cost of the collection of such fees and the disbursement thereof may be deducted from the total amount collected and in cities and villages of more than 3,000 inhabitants, not to exceed 35% of such fees may be used also for payment of salaries and wages of policemen engaged in the duty of regulating traffic.

This amendatory Act of 1973 is not a limit upon any municipality which is a home rule unit.

(Source: P.A. 83-65.)

# Home Rule Municipal Service Occupation Tax Act

(65 ILCS 5/8-11-5) (from Ch. 24, par. 8-11-5)

Sec. 8-11-5. Home Rule Municipal Service Occupation Tax Act. The corporate authorities of a home rule municipality may impose a tax upon all persons engaged, in such municipality, in the business of making sales of service at the same rate of tax imposed pursuant to Section 8-11-1, of the selling price of all tangible personal property transferred by such servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service. If imposed, such tax shall only be imposed in 1/4% increments. On and after September 1, 1991, this additional tax may not be imposed on the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics. The tax imposed by a home rule municipality pursuant to this Section and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The certificate of registration which is issued by the Department to a retailer under the Retailers' Occupation Tax Act or under the Service Occupation Tax Act shall permit such registrant to engage in a business which is taxable under any ordinance or resolution enacted pursuant to this Section without registering separately with the Department under such ordinance or resolution or under this Section. The Department shall have full power to administer and enforce this Section; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided, and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, and compliance with, this Section the Department and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in respect to all provisions therein other than the State rate of tax), 4 (except that the reference to the State shall be to the taxing municipality), 5, 7, 8 (except that the jurisdiction to which the tax shall be a debt to the extent indicated in that Section 8 shall be the taxing municipality), 9 (except as to the disposition of taxes and penalties collected, and except that the returned merchandise credit for this municipal tax may not be taken against any State tax), 10, 11, 12 (except the reference therein to Section 2b of the Retailers' Occupation Tax Act), 13 (except that any reference to the State shall mean the taxing municipality), the first paragraph of Section 15, 16, 17 (except that credit memoranda issued hereunder may not be used to discharge any State tax liability), 18, 19

and 20 of the Service Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

No tax may be imposed by a home rule municipality pursuant to this Section unless such municipality also imposes a tax at the same rate pursuant to Section 8-11-1 of this Act.

Persons subject to any tax imposed pursuant to the authority granted in this Section may reimburse themselves for their serviceman's tax liability hereunder by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which servicemen are authorized to collect under the Service Use Tax Act, pursuant to such bracket schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named, in such notification from the Department. Such refund shall be paid by the State Treasurer out of the home rule municipal retailers' occupation tax fund.

The Department shall forthwith pay over to the State Treasurer, ex-officio, as trustee, all taxes and penalties collected hereunder. On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to named municipalities, the municipalities to be those from which suppliers and servicemen have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each municipality shall be the amount (not including credit memoranda) collected hereunder during the second preceding calendar month by the Department, and not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of such municipality. Within 10 days after receipt, by the Comptroller, of the disbursement certification to the municipalities, provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for the respective amounts in accordance with the directions contained in such certification.

In addition to the disbursement required by the preceding paragraph and in order to mitigate delays caused by distribution procedures, an allocation shall, if requested, be made within 10 days after January 14, 1991, and in November of 1991 and each year thereafter, to each municipality that received more than \$500,000 during the preceding fiscal year, (July 1 through June 30) whether collected by the municipality or disbursed by the Department as required by this Section. Within 10 days after January 14, 1991, participating municipalities shall notify the Department in writing of their intent to participate. In addition, for the initial distribution, participating municipalities shall certify to the Department the amounts collected by the municipality for each month under its home rule occupation and service occupation tax during the period July 1, 1989 through June 30, 1990. The allocation within 10 days after January 14, 1991, shall be in an amount equal to the monthly average of these amounts, excluding the 2 months of highest receipts. Monthly average for the period of July 1, 1990 through June 30, 1991 will be determined as follows: the amounts collected by the municipality under its home rule occupation and service occupation tax during the period of July 1, 1990 through September 30, 1990, plus amounts collected by the Department and paid to such municipality through June 30, 1991, excluding the 2 months of highest receipts. The monthly average for each subsequent period of July 1 through June 30 shall be an amount equal to the monthly distribution made to each such municipality under the preceding paragraph during this period, excluding the 2 months of highest receipts. The distribution made in November 1991 and each year thereafter under this paragraph and the preceding paragraph shall be reduced by the amount allocated and disbursed under this paragraph in the preceding period of July 1 through June 30. The Department shall prepare and certify to the Comptroller for disbursement the allocations made in accordance with this paragraph. Nothing in this Section shall be construed to authorize a municipality to impose a tax upon the privilege of engaging in any business which under the constitution of the United States may not be made the subject of taxation by this State.

An ordinance or resolution imposing or discontinuing a tax hereunder or effecting a change in the rate thereof shall be adopted and a certified copy thereof filed with the Department on or before the first day of June, whereupon the Department shall proceed to administer and enforce this Section as of the first day of September next following such adoption and filing. Beginning January 1, 1992, an ordinance or resolution imposing or discontinuing the tax hereunder or effecting a change in the rate thereof shall be adopted and a certified copy thereof filed with the Department on or before the first day of July, whereupon the Department shall proceed to administer and enforce this Section as of the first day of October next following such adoption and filing. Beginning January 1, 1993, an ordinance or resolution imposing or discontinuing the tax hereunder or effecting a change in the rate thereof shall be adopted and a certified copy thereof filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce this Section as of the first day of January next following such adoption and filing. However, a municipality located in a county with a population in excess of 3,000,000 that elected to become a home rule unit at the general primary election in 1994 may adopt an ordinance or resolution imposing the tax under this Section and file a certified copy of the ordinance or resolution with the Department on or before July 1, 1994. The Department shall then proceed to administer and enforce this Section as of October 1, 1994. Beginning April 1, 1998, an ordinance or resolution imposing or discontinuing the tax hereunder or effecting a change in the rate thereof shall either (i) be adopted and a certified copy thereof filed with the Department on or before the first day of April, whereupon the Department shall proceed to administer and enforce this Section as of the first day of July next following the adoption and filing; or (ii) be adopted and a certified copy thereof filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce this Section as of the first day of January next following the adoption and filing.

Any unobligated balance remaining in the Municipal Retailers' Occupation Tax Fund on December 31, 1989, which fund was abolished by Public Act 85-1135, and all receipts of municipal tax as a result of audits of liability periods prior to January 1, 1990, shall be paid into the Local Government Tax Fund, for distribution as provided by this Section prior to the enactment of Public Act 85-1135. All receipts of municipal tax as a result of an assessment not arising from an audit, for liability periods prior to January 1, 1990, shall be paid into the Local Government Tax Fund for distribution before July 1, 1990, as provided

by this Section prior to the enactment of Public Act 85-1135, and on and after July 1, 1990, all such receipts shall be distributed as provided in Section 6z-18 of the State Finance Act.

As used in this Section, "municipal" and "municipality" means a city, village or incorporated town, including an incorporated town which has superseded a civil township.

This Section shall be known and may be cited as the Home Rule Municipal Service Occupation Tax Act.

(Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

# Home Rule Municipal Use Tax Act

(65 ILCS 5/8-11-6) (from Ch. 24, par. 8-11-6)

Sec. 8-11-6. Home Rule Municipal Use Tax Act.

- (a) The corporate authorities of a home rule municipality may impose a tax upon the privilege of using, in such municipality, any item of tangible personal property which is purchased at retail from a retailer, and which is titled or registered at a location within the corporate limits of such home rule municipality with an agency of this State's government, at a rate which is an increment of 1/4% and based on the selling price of such tangible personal property, as "selling price" is defined in the Use Tax Act. In home rule municipalities with less than 2,000,000 inhabitants, the tax shall be collected by the municipality imposing the tax from persons whose Illinois address for titling or registration purposes is given as being in such municipality.
- (b) In home rule municipalities with 2,000,000 or more inhabitants, the corporate authorities of the municipality may additionally impose a tax beginning July 1, 1991 upon the privilege of using in the municipality, any item of tangible personal property, other than tangible personal property titled or registered with an agency of the State's government, that is purchased at retail from a retailer located outside the corporate limits of the municipality, at a rate that is an increment of 1/4% not to exceed 1% and based on the selling price of the tangible personal property, as "selling price" is defined in the Use Tax Act. Such tax shall be collected from the purchaser either by the municipality imposing such tax or by the Department of Revenue pursuant to an agreement between the Department and the municipality.

To prevent multiple home rule taxation, the use in a home rule municipality of tangible personal property that is acquired outside the municipality and caused to be brought into the municipality by a person who has already paid a home rule municipal tax in another municipality in respect to the sale, purchase, or use of that property, shall be exempt to the extent of the amount of the tax properly due and paid in the other home rule municipality.

(c) If a municipality having 2,000,000 or more inhabitants imposes the tax authorized by subsection (a), then the tax shall be collected by the Illinois Department of Revenue when the property is purchased at retail from a retailer in the county in which the home rule municipality imposing the tax is located, and in all contiguous counties. The tax shall be remitted to the State, or an exemption determination must be obtained from the Department before the title or certificate of registration for the property may be issued. The tax or proof of exemption may be transmitted to the

Department by way of the State agency with which, or State officer with whom, the tangible personal property must be titled or registered if the Department and that agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

The Department shall have full power to administer and enforce this Section to collect all taxes, penalties and interest due hereunder, to dispose of taxes, penalties and interest so collected in the manner hereinafter provided, and determine all rights to credit memoranda or refunds arising on account of the erroneous payment of tax, penalty or interest hereunder. In the administration of and compliance with this Section the Department and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties and definitions of terms, and employ the same modes of procedure as are prescribed in Sections 2 (except the definition of "retailer maintaining a place of business in this State"), 3 (except provisions pertaining to the State rate of tax, and except provisions concerning collection or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15, 19, 20, 21 and 22 of the Use Tax Act, which are not inconsistent with this Section, as fully as if provisions contained in those Sections of the Use Tax Act were set forth herein.

Whenever the Department determines that a refund shall be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named, in such notification from the Department. Such refund shall be paid by the State Treasurer out of the home rule municipal retailers' occupation tax fund.

The Department shall forthwith pay over to the State Treasurer, ex officio, as trustee, all taxes, penalties and interest collected hereunder. On or before the 25th day of each calendar month, the Department shall prepare and certify to the State Comptroller the disbursement of stated sums of money to named municipalities, the municipality in each instance to be that municipality from which the Department during the second preceding calendar month, collected municipal use tax from any person whose Illinois address for titling or registration purposes is given as being in such municipality. The amount to be paid to each municipality shall be the amount (not including credit memoranda) collected hereunder during the second preceding calendar month by the Department, and not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of such municipality, less the amount expended during the second preceding month by the Department to be paid from the appropriation to the Department from the Home Rule Municipal Retailers' Occupation Tax Trust Fund. The appropriation to cover the costs incurred by the Department in administering and enforcing this Section shall not exceed 2% of the amount estimated to be deposited into the Home Rule Municipal Retailers' Occupation Tax Trust Fund during the fiscal year for which the appropriation is made. Within 10 days after receipt by the State Comptroller of the disbursement certification to the municipalities provided for in this Section to be given to the State Comptroller by

the Department, the State Comptroller shall cause the orders to be drawn for the respective amounts in accordance with the directions contained in that certification.

Any ordinance imposing or discontinuing any tax to be collected and enforced by the Department under this Section shall be adopted and a certified copy thereof filed with the Department on or before October 1, whereupon the Department of Revenue shall proceed to administer and enforce this Section on behalf of the municipalities as of January 1 next following such adoption and filing. Beginning April 1, 1998, any ordinance imposing or discontinuing any tax to be collected and enforced by the Department under this Section shall either (i) be adopted and a certified copy thereof filed with the Department on or before April 1, whereupon the Department of Revenue shall proceed to administer and enforce this Section on behalf of the municipalities as of July 1 next following the adoption and filing; or (ii) be adopted and a certified copy thereof filed with the Department on or before October 1, whereupon the Department of Revenue shall proceed to administer and enforce this Section on behalf of the municipalities as of January 1 next following the adoption and filing.

Nothing in this subsection (c) shall prevent a home rule municipality from collecting the tax pursuant to subsection (a) in any situation where such tax is not collected by the Department of Revenue under this subsection (c).

- (d) Any unobligated balance remaining in the Municipal Retailers' Occupation Tax Fund on December 31, 1989, which fund was abolished by Public Act 85-1135, and all receipts of municipal tax as a result of audits of liability periods prior to January 1, 1990, shall be paid into the Local Government Tax Fund, for distribution as provided by this Section prior to the enactment of Public Act 85-1135. All receipts of municipal tax as a result of an assessment not arising from an audit, for liability periods prior to January 1, 1990, shall be paid into the Local Government Tax Fund for distribution before July 1, 1990, as provided by this Section prior to the enactment of Public Act 85-1135, and on and after July 1, 1990, all such receipts shall be distributed as provided in Section 6z-18 of the State Finance Act.
- (e) As used in this Section, "Municipal" and "Municipality" means a city, village or incorporated town, including an incorporated town which has superseded a civil township.
- (f) This Section shall be known and may be cited as the Home Rule Municipal Use Tax Act.

(Source: P.A. 91-51, eff. 6-30-99; 92-221, eff. 8-2-01; 92-844, eff. 8-23-02; 92-846, eff. 8-23-02.)

# Home Rule Municipalities; Preemption of Certain Taxes

(65 ILCS 5/8-11-6a) (from Ch. 24, par. 8-11-6a)

Sec. 8-11-6a. Home rule municipalities; preemption of certain taxes. Except as provided in Sections 8-11-1, 8-11-5, 8-11-6, 8-11-6b, and 11-74.3-6 on and after September 1, 1990, no home rule municipality has the authority to impose, pursuant to its home rule authority, a retailer's occupation tax, service occupation tax, use tax, sales tax or other tax on the use, sale or purchase of tangible personal property based on the gross receipts from such sales

or the selling or purchase price of said tangible personal property. Notwithstanding the foregoing, this Section does not preempt any home rule imposed tax such as the following: (1) a tax on alcoholic beverages, whether based on gross receipts, volume sold or any other measurement; (2) a tax based on the number of units of cigarettes or tobacco products (provided, however, that a home rule municipality that has not imposed a tax based on the number of units of cigarettes or tobacco products before July 1, 1993, shall not impose such a tax after that date); (3) a tax, however measured, based on the use of a hotel or motel room or similar facility; (4) a tax, however measured, on the sale or transfer of real property; (5) a tax, however measured, on lease receipts; (6) a tax on food prepared for immediate consumption and on alcoholic beverages sold by a business which provides for on premise consumption of said food or alcoholic beverages; or (7) other taxes not based on the selling or purchase price or gross receipts from the use, sale or purchase of tangible personal property. This Section is not intended to affect any existing tax on food and beverages prepared for immediate consumption on the premises where the sale occurs, or any existing tax on alcoholic beverages, or any existing tax imposed on the charge for renting a hotel or motel room, which was in effect January 15, 1988, or any extension of the effective date of such an existing tax by ordinance of the municipality imposing the tax, which extension is hereby authorized, in any non-home rule municipality in which the imposition of such a tax has been upheld by judicial determination, nor is this Section intended to preempt the authority granted by Public Act 85-1006. This Section is a limitation, pursuant to subsection (g) of Section 6 of Article VII of the Illinois Constitution, on the power of home rule units to tax.

(Source: P.A. 93-1053, eff. 1-1-05.)

## **Home Rule Soft Drink Taxes**

(65 ILCS 5/8-11-6b)

Sec. 8-11-6b. Home rule soft drink taxes.

- (a) Except as provided in Sections 8-11-1, 8-11-5 and 8-11-6, or as provided in this Section, no home rule municipality has the authority to impose, pursuant to its home rule authority, a tax on the sale, purchase, or use of soft drinks regardless of whether the measure of the tax is selling price, purchase price, gross receipts, unit of volumetric measure, or any other measure. For purposes of this subsection, the term "soft drink" has the meaning set forth in Section 2-10 of the Retailers' Occupation Tax Act, as may be amended from time to time, except that the term shall not be limited to drinks contained in a closed or sealed bottle, can, carton, or container. This Section is a denial and limitation, under subsection (g) of Section 6 of Article VII of the Illinois Constitution, on the power of home rule units to tax.
- (b) The corporate authorities of a home rule municipality with a population in excess of 1,000,000 may impose a tax, which shall not take effect prior to April 1, 1994, upon all persons engaged in the business of selling soft drinks (other than fountain soft drinks) at retail in the municipality based on the gross receipts from those sales made in the course of such business. If imposed, the tax shall only be in 1/4% increments and shall not exceed 3%. For purposes of this subsection, the term "soft drink" has the meaning set forth in Section 2-10 of the Retailers' Occupation Tax Act, as may be amended from time to time, except that the term shall not be limited to drinks contained in a closed or sealed bottle, can, carton or container; the term

"fountain soft drinks" means soft drinks which are prepared by the retail seller of the soft drinks by mixing syrup or concentrate with water, by hand or through a soft drink dispensing machine, at or near the point and time of sale to the retail purchaser; and the term "soft drink dispensing machine" means a device which mixes soft drink syrup or concentrate with water and dispenses the mixture into an open container as a ready to drink soft drink.

The tax imposed under this subsection and all civil penalties that may be assessed as an incident to that tax shall be collected and enforced by the Illinois Department of Revenue. The Department shall have full power to administer and enforce this subsection, to collect all taxes and penalties so collected in the manner provided in this subsection, and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty under this subsection. In the administration of and compliance with this subsection, the Department and persons who are subject to this subsection shall have the same rights, remedies, privileges, immunities, powers and duties, shall be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions, and definitions of terms, and shall employ the same modes of procedure applicable to the Retailers' Occupation Tax as are prescribed in Sections 1, 2 through 2-65 (in respect to all provisions of those Sections other than the State rate of taxes), 2c, 2h, 2i, 3 (except as to the disposition of taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12, 13 and, until January 1, 1994, 13.5 of the Retailers' Occupation Tax Act, and on and after January 1, 1994, all applicable provisions of the Uniform Penalty and Interest Act that are not inconsistent with this subsection, as fully as if provisions contained in those Sections of the Retailers' Occupation Tax Act were set forth in this subsection.

Persons subject to any tax imposed under the authority granted by this subsection may reimburse themselves for their seller's tax liability under this subsection by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with State taxes that sellers are required to collect under the Use Tax Act pursuant to bracket schedules as the Department may prescribe. The retailer filing the return shall, at the time of filing the return, pay to the Department the amount of tax imposed under this subsection, less the discount of 1.75%, which is allowed to reimburse the retailer for the expenses incurred in keeping records, preparing the filing returns, remitting the tax, and supplying data to the Department on request.

Whenever the Department determines that a refund should be made under this subsection to a claimant instead of issuing a credit memoranda, the Department shall notify the State Comptroller, who shall cause a warrant to be drawn for the amount specified and to the person named in the notification from the Department. The refund shall be paid by the State Treasurer out of the Home Rule Municipal Soft Drink Retailers' Occupation Tax Fund.

The Department shall forthwith pay over to the State Treasurer, ex officio, as trustee, all taxes and penalties collected hereunder. On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller

the amount to be paid to named municipalities, the municipalities to be those from which retailers have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each municipality shall be the amount collected hereunder during the second preceding calendar month by the Department, less any amounts determined by the Department to be necessary for the payment of refunds, and less 4% for the first year the tax is in effect and 2% thereafter of such balance, which sum shall be deposited by the State Treasurer into the Tax Compliance and Administration Fund in the State treasury from which it shall be appropriated to the Department to cover the costs of the Department in administering and enforcing the provisions of this subsection. Within 10 days after receipt by the Comptroller of the certification, the Comptroller shall cause the orders to be drawn for the respective amount in accordance with the directions contained in such certification.

Nothing in this Section shall be construed to authorize a municipality to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by the State.

A certificate of registration issued by the Illinois Department of Revenue to a retailer under the Retailers' Occupation Tax Act shall permit the registrant to engage in a business that is taxed under the tax imposed under this subsection and no additional registration shall be required under the ordinance imposing a tax or under this subsection.

A certified copy of any ordinance imposing or discontinuing any tax under this subsection or effecting a change in the rate of that tax shall be filed with the Department, whereupon the Department shall proceed to administer and enforce this subsection on behalf of such municipality as of the first day of February following the date of filing. This tax shall be known and cited as the Home Rule Municipal Soft Drink Retailers' Occupation Tax.

(c) The corporate authorities of a home rule municipality with a population in excess of 1,000,000 may impose a tax, which shall not take effect prior to April 1, 1994, on persons engaged in the business of selling fountain soft drinks at retail at a rate not to exceed 9% of the cost price of the fountain soft drinks at retail in such municipality. For purposes of this subsection, the term "soft drink" has the meaning set forth in Section 2-10 of the Retailers' Occupation Tax Act, as may be amended from time to time, except that the term shall not be limited to drinks contained in a closed or sealed bottle, can, carton, or container; the term "fountain soft drinks" means soft drinks which are prepared by the retail seller of the soft drinks by mixing soft drink syrup or concentrate with water, by hand or through a soft drink dispensing machine at or near the point and time of sale to the retail purchaser; the term "soft drink dispensing machine" means a device which mixes soft drink syrup or concentrate with water and dispenses such mixture into an open container as a ready to drink soft drink; the term "sold at retail" shall mean any transfer of the ownership or title to tangible personal property to a purchaser, for the purpose of use or consumption, and not for the purpose of resale, for valuable consideration; the term "cost price of the fountain soft drinks" means the consideration paid by the

retail seller of the fountain soft drink, valued in money, whether paid in money or otherwise, including cash, credits and services, and shall be determined without any deduction on account of the supplier's cost of the property sold or on account or any other expenses incurred by the supplier, for the purchase of soft drink syrup or concentrate which is designed to be further mixed with water before it is consumed as a soft drink; and the term "supplier" means any person who makes sales of soft drink syrup or concentrate to a retail seller of fountain soft drinks for purposes of resale as fountain soft drinks. The tax authorized by this subsection shall be collected, enforced, and administered by the municipality imposing the tax. Persons subject to the tax may reimburse themselves for their tax liability hereunder by separately stating an amount equal to the tax as an additional charge to their retail purchasers or may include such amount as part of the selling price of the soft drink. The municipality imposing the tax shall provide for its collection from the person subject to the tax by requiring that the supplier to the person subject to the tax collect and remit the tax to the municipality. If the supplier fails to collect the tax or if the person subject to the tax fails to pay the tax to its supplier, the person subject to the tax shall make the tax payment directly to the municipality. Payment of the tax by the retailer to the supplier shall relieve the retailer of any further liability for the tax.

- (d) If either tax imposed or authorized by this Section 8-11-6b is repealed by the General Assembly or has its maximum rate reduced by the General Assembly, or is declared unlawful or unconstitutional on its face by any court of competent jurisdiction after all appeals have been exhausted or the time to appeal has expired, then this Section 8-11-6b is automatically repealed and no longer effective without further action by the General Assembly.
- (e) Notwithstanding the preemption of taxes on the sale, purchase or use of soft drinks, taxes on the sale, purchase, or use of soft drinks which had been imposed by a municipality prior to the effective date of this amendatory Act of 1993 are specifically authorized under this Section for sales made on or after the effective date of this amendatory Act of 1993 through March 31, 1994.

(Source: P.A. 88-507.)

#### Automobile Rental Tax

(65 ILCS 5/8-11-7) (from Ch. 24, par. 8-11-7)

Sec. 8-11-7. The corporate authorities of a municipality may impose a tax upon all persons engaged in the business of renting automobiles in the municipality at the rate of not to exceed 1% of the gross receipts from such business. The tax imposed by a municipality pursuant to this Section and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The certificate of registration which is issued by the Department to a retailer under the Retailers' Occupation Tax Act or under the Automobile Renting Occupation and Use Tax Act shall permit such person to engage in a business which is taxable under any ordinance or resolution enacted pursuant to this Section without registering separately with the Department under such ordinance or resolution or under this Section. The Department shall have full power to administer and enforce this Section; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided; and to

determine all rights to credit memoranda, arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, and compliance with, this Section, the Department and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 2 and 3 (in respect to all provisions therein other than the State rate of tax; and with relation to the provisions of the "Retailers' Occupation Tax" referred to therein, except as to the disposition of taxes and penalties collected, and except for the provision allowing retailers a deduction from the tax to cover certain costs, and except that credit memoranda issued hereunder may not be used to discharge any State tax liability) of the Automobile Renting Occupation and Use Tax Act, as fully as if those provisions were set forth herein.

Persons subject to any tax imposed pursuant to the authority granted in this Section may reimburse themselves for their tax liability hereunder by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which sellers are required to collect under the Automobile Renting Occupation and Use Tax Act pursuant to such bracket schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named, in such notification from the Department. Such refund shall be paid by the State Treasurer out of the municipal automobile renting tax fund.

The Department shall forthwith pay over to the State Treasurer, ex-officio, as trustee, all taxes and penalties collected hereunder. On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to named municipalities, the municipalities to be those from which rentors have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each municipality shall be the amount (not including credit memoranda) collected hereunder during the second preceding calendar month by the Department, and not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of such municipality, less 1.6% of such balance, which sum shall be retained by the State Treasurer to cover the costs incurred by the Department in administering and enforcing this Section as provided herein. The Department at the time of each monthly disbursement to the municipalities shall prepare and certify to the Comptroller the amount, so retained by the State Treasurer, to be paid into the General Revenue Fund of the State Treasury. Within 10 days after receipt, by the Comptroller, of the disbursement certification to the municipalities and the General Revenue Fund, provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for the respective amounts in accordance with the directions contained in such certification.

Nothing in this Section shall be construed to authorize a municipality to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by this State.

An ordinance or resolution imposing a tax hereunder or effecting a change in the rate thereof shall be effective on the first day of the calendar month next following publication as provided in Section 1-2-4. The corporate authorities of any municipality which levies a tax authorized by this Section shall transmit to the Department of Revenue on or not later than 5 days after publication a certified copy of the ordinance or resolution imposing such tax whereupon the Department of Revenue shall proceed to administer and enforce this Section on behalf of such municipality as of the effective date of the ordinance or resolution. Upon a change in rate of a tax levied hereunder, or upon the discontinuance of the tax, the corporate authorities of the municipality shall on or not later than 5 days after publication of the ordinance or resolution discontinuing the tax or effecting a change in rate transmit to the Department of Revenue a certified copy of the ordinance or resolution effecting such change or discontinuance.

The Department of Revenue must upon the request of the municipal clerk, city council or village board of trustees submit to a city, village or incorporated town a list of those persons who are registered with the Department to pay automobile renting occupation tax within that governmental unit. This list shall contain only the names of persons who have paid the tax and not the amount of tax paid by such person.

As used in this Section, "municipal" and "municipality" means a city, village or incorporated town, including an incorporated town which has superseded a civil township.

This Section shall be known and may be cited as the "Municipal Automobile Renting Occupation Tax Act".

(Source: P.A. 86-1475.)

#### Interstate Automobile Rental Tax

(65 ILCS 5/8-11-8) (from Ch. 24, par. 8-11-8)

Sec. 8-11-8. The corporate authorities of a municipality may impose a tax upon the privilege of using, in such municipality, an automobile which is rented from a rentor outside Illinois, and which is titled or registered with an agency of this State's government, at a rate not to exceed 1% of the rental price of such automobile. Such tax shall be collected from persons whose Illinois address for titling or registration purposes is given as being in such municipality. Such tax shall be collected by the Department of Revenue for any municipality imposing such tax. Such tax must be paid to the State, or an exemption determination must be obtained from the Department of Revenue, before the title or certificate of registration for the property may be issued. The tax or proof of exemption may be transmitted to the Department by way of the State agency with which, or State officer with whom, the tangible personal property must be titled or registered if the Department and such agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

The Department shall have full power to administer and enforce this Section; to collect all taxes, penalties and interest due hereunder; to dispose of taxes, penalties and interest so collected in the manner hereinafter provided, and to determine all rights to credit memoranda or refunds arising on account of the erroneous payment of tax, penalty or interest hereunder. In the administration of, and compliance with, this Section, the Department and persons who are subject to this Section shall have the same rights,

remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties and definitions of terms, and employ the same modes of procedure as are prescribed in Sections 2 and 4 (except provisions pertaining to the State rate of tax; and with relation to the provisions of the "Use Tax Act" referred to therein, except provisions concerning collection or refunding of the tax by retailers, and except the provisions of Section 19 pertaining to claims by retailers and except the last paragraph concerning refunds, and except that credit memoranda issued hereunder may not be used to discharge any State tax liability) of the "Automobile Renting Occupation and Use Tax Act", enacted by the Eighty-second General Assembly, as the same are now or may hereafter be amended, which are not inconsistent with this Section, as fully as if provisions contained in those Sections of said Act were set forth herein.

Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named, in such notification from the Department. Such refund shall be paid by the State Treasurer out of the municipal automobile renting tax fund.

The Department shall forthwith pay over to the State Treasurer, ex-officio, as trustee, all taxes, penalties and interest collected hereunder. On or before the 25th day of each calendar month, the Department shall prepare and certify to the State Comptroller the disbursement of stated sums of money to named municipalities, the municipality in each instance to be that municipality from which the Department, during the second preceding calendar month, collected taxes hereunder from persons whose Illinois address for titling or registration purposes is given as being in such municipality. The amount to be paid to each municipality shall be the amount (not including credit memoranda) collected hereunder during the second preceding calendar month by the Department, and not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of such municipality, less 1.6% of such balance, which sum shall be retained by the State Treasurer to cover the costs incurred by the Department in administering and enforcing this Section as provided herein. The Department at the time of each monthly disbursement to the municipalities shall prepare and certify to the State Comptroller the amount, so retained by the State Treasurer, to be paid into the General Revenue Fund of the State Treasury. Within 10 days after receipt, by the State Comptroller, of the disbursement certification to the municipalities and the General Revenue Fund, provided or in this Section to be given to the State Comptroller by the Department, the State Comptroller shall cause the orders to be drawn for the respective amounts in accordance with the directions contained in such certification.

An ordinance or resolution imposing a tax hereunder or effecting a change in the rate thereof shall be effective on the first day of the second calendar month next following publication as provided in Section 1-2-4. The corporate authorities of any municipality which levies a tax authorized by this Section shall transmit to the Department of Revenue not later than 5 days after publication a certified copy of the ordinance or resolution imposing such tax whereupon the Department of Revenue shall proceed to administer and enforce this Section on behalf of such municipality as of the effective date of the ordinance or resolution. Upon a change in rate of a tax levied hereunder, or upon the discontinuance

of the tax, the corporate authorities of the municipality shall, on or not later than 5 days after publication of the ordinance or resolution discontinuing the tax or effecting a change in rate, transmit to the Department of Revenue a certified copy of the ordinance or resolution effecting such change or discontinuance.

As used in this Section, "Municipal" and "Municipality" means a city, village or incorporated town, including an incorporated town which has superseded a civil township.

This Section shall be known and may be cited as the "Municipal Automobile Renting Use Tax Act".

(Source: P.A. 84-149.)

## Replacement Vehicle Tax

(65 ILCS 5/8-11-9) (from Ch. 24, par. 8-11-9)

Sec. 8-11-9. The corporate authorities of a municipality may impose a replacement vehicle tax of \$50 on any passenger car, as defined in Section 1-157 of The Illinois Vehicle Code, purchased within the municipality by or on behalf of an insurance company to replace a passenger car of an insured person in settlement of a total loss claim. The tax so imposed may not become effective before the first day of the month following the passage of the ordinance imposing such tax and receipt of a certified copy of such ordinance by the Department of Revenue. The Department of Revenue shall collect such tax for the municipality in accordance with Sections 3-2002 and 3-2003 of Article XI of The Illinois Vehicle Code.

The Department shall forthwith pay over to the State Treasurer, ex officio, as trustee, all taxes collected hereunder. On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to named municipalities, the municipalities to be those from which retailers have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each municipality shall be the amount collected hereunder during the second preceding calendar month by the Department, less 1.6% of such balance, which sum shall be retained by the State Treasurer to cover the costs incurred by the Department in administering and enforcing this Section as provided herein. The Department at the time of each monthly disbursement to the municipalities shall prepare and certify to the Comptroller the amount, so retained by the State Treasurer, to be paid into the General Revenue Fund of the State Treasury less any amount determined by the Department to be necessary for the payment of refunds. Within 10 days after receipt, by the Comptroller, of the disbursement certification to the municipalities and the General Revenue Fund, provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for the respective amounts in accordance with the directions contained in such certification.

#### Quarterly Tax Report—Contents

(Source: P.A. 84-149.)

(65 ILCS 5/8-11-9.1) (from Ch. 24, par. 8-11-9.1)

Sec. 8-11-9.1. Except as hereinafter provided, the Department of Revenue shall publish and make available to each municipality a quarterly report in which the Department of

Revenue shall list any municipal retailers' occupation taxes collected pursuant to Section 8-11-1 of this Code, service occupation taxes collected pursuant to Section 8-11-5 of this Code and use taxes collected pursuant to Section 8-11-6 of this Code, during the previous quarter and such list shall be itemized according to the following merchandise subject areas:

- 1. general merchandise;
- 2. food;
- 3. drinking and eating places;
- 4. apparel;
- furniture and home furnishings and all other household appliances including but not limited to desks, china, glassware, drapery, upholstery, radios, televisions and any repair for any such items;
- 6. lumber, hardware, building and highway construction and all other kinds of construction including but not limited to roofing, masonry, wrecking, demolition, excavating, plumbing and water well drilling;
- 7. automobiles, both new and used, and automobile accessories, parking lots, repairs, gasoline and service stations;
- 8. drugs, chemicals, paper, jewelry, alcoholic beverages, antiques, sporting goods, books and stationery;
- 9. all manufacturers; and
- 10. farm crops and livestock, timber, printing, crude petroleum, oil, natural gas, gas liquids and any and all items that are not listed in paragraphs 1 through 9 of this Section that are necessary in order to give municipalities a complete picture of the taxes to be expected. Such report shall be distributed to all municipal governments no later than 90 days after the last due date for tax returns for the final month of the quarter for which the report was prepared. The Department of Revenue may combine the reports for all of the municipalities into a single report.

This Section shall not be so construed as to require such listing to disclose the information in any individual return in violation of Section 11 of the "Retailers' Occupation Tax Act". (Source: P.A. 85-293.)

# Motor Vehicle Leasing Tax

(65 ILCS 5/8-11-11) (from Ch. 24, par. 8-11-11)

Sec. 8-11-11. In addition to any other taxes authorized by law, the corporate authorities of a municipality may impose a tax upon the privilege of leasing motor vehicles within the municipality to a lessee on a daily or weekly basis in an amount not to exceed \$2.75 per vehicle per rental period specified in the lease agreement. The tax may be stated separately in such lease agreement, invoice or bill.

The ordinance or resolution imposing any such tax shall provide for the means of its administration, collection and enforcement by the municipality.

As used in this Section, "municipality" means a city, village or incorporated town, including an incorporated town which has superseded a civil township, and "motor vehicle" has the meaning ascribed to it in Section 1-146 of The Illinois Vehicle Code. (Source: P.A. 84-1479.)

# Motor Fuel Tax—Referendum—Liability (65 ILCS 5/8-11-15) (from Ch. 24, par. 8-11-15)

Sec. 8-11-15.

- (a) The corporate authorities of a municipality of over 100,000 inhabitants may, upon approval of the electors of the municipality pursuant to subsection (b), impose a tax of one cent per gallon on motor fuel sold at retail within such municipality. A tax imposed pursuant to this Section shall be paid in addition to any other taxes on such motor fuel.
- (b) The corporate authorities of the municipality may by resolution call for the submission to the electors of the municipality of the question of whether the municipality shall impose such tax. Such question shall be certified by the municipal clerk to the election authority in accordance with Section 28-5 of The Election Code. The question shall be in substantially the following form:

Shall the city (village or	
incorporated town) of	YES
impose a tax of one cent per	
gallon on motor fuel sold at	NO
retail within its boundaries?	

If a majority of the electors in the municipality voting upon the question vote in the affirmative, such tax shall be imposed.

- (c) The purchaser of the motor fuel shall be liable for payment of a tax imposed pursuant to this Section. This Section shall not be construed to impose a tax on the occupation of persons engaged in the sale of motor fuel.
  - If a municipality imposes a tax on motor fuel pursuant to this Section, it shall be the duty of any person engaged in the retail sale of motor fuel within such municipality to collect such tax from the purchaser at the same time he collects the purchase price of the motor fuel and to pay over such tax to the municipality as prescribed by the ordinance of the municipality imposing such tax.
- (d) For purposes of this Section, "motor fuel" shall have the same meaning as provided in the "Motor Fuel Tax Law".

(Source: P.A. 84-1099.)

# <u>List of Retailers Registered under Retailers' Occupation Tax Act—Information to Municipalities</u>

(65 ILCS 5/8-11-16) (from Ch. 24, par. 8-11-16)

Sec. 8-11-16. The Department of Revenue shall submit to each municipality each year a list of those persons within that municipality who are registered with the Department under the Retailers' Occupation Tax Act.

The list shall indicate the street address of each retail outlet operated in the municipality by the persons so registered and the name under which the retailer conducts business, if different from the corporate name. The municipal clerk shall forward any changes or corrections to the list to the Department within 6 months. The Department shall update and correct its records to reflect such changes, or notify the municipality in writing that the

suggested changes are erroneous, within 90 days. The Department shall also provide monthly updates to each municipality showing additions or deletions to the list of retail outlets within the municipality. The Department shall provide a copy of the annual listing herein provided for contiguous jurisdictions when a municipality so requests. The list required by this Section shall contain only the names and street addresses of persons who are registered with the Department and shall not include the amount of tax paid by such persons. The list required by this Section shall be provided to each municipality no later than September 1 annually.

When certifying the amount of a monthly disbursement to a municipality under Section 8-11-1, 8-11-5, 8-11-6 of this Act or Section 6z-18 of "An Act in relation to State finance", the Department shall increase or decrease such amount by an amount necessary to offset any misallocation of previous disbursements. The offset amount shall be the amount erroneously disbursed within the previous 6 months from the time a misallocation is discovered.

The Department of Revenue must upon the request of any municipality received pursuant to the provisions of this paragraph furnish to such municipality data setting forth the aggregate amount of retailers' occupation tax collected on behalf of such municipality from any shopping center identified in such request and located within such municipality for each month beginning with the first month following the month within which such a request is received by the Department, provided that such data may be provided only with respect to shopping centers (1) which consist of 50 or more persons registered with the Department to pay Retailers' Occupation Tax, and (2) where the developers or owners thereof or their predecessors in interest have entered into written agreements with the municipality to transfer property to or perform services for or on behalf of such municipality in exchange for payments based solely or in part on the amount of retailers' occupation tax collected on behalf of the municipality from persons within such shopping centers. Data given pursuant to this paragraph shall not identify by amounts the individual sources of such taxes. A request for data pursuant to this paragraph shall first be submitted to the Department of Revenue by the Municipal Clerk, City Council or Village Board of Trustees. The Department of Revenue shall review each such request to determine whether the requirements of item (2) of the first sentence of this paragraph have been met and, within 30 days following its receipt of such a request, shall either certify that the request meets such requirements, or notify the person submitting the request that the request does not meet such requirements.

As used in this Section, "Municipal" or "Municipality" means or refers to a city, village or incorporated town, including an incorporated town which has superseded a civil township, and "shopping center" means a group of retail stores and other business and service establishments in an integrated building arrangement operated under common ownership or diverse ownership under unified control involving common parking areas and mutual easements.

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(Source: P.A. 91-51, eff. 6-30-99.)
(65 ILCS 5/8-11-17) (from Ch. 24, par. 8-11-17)
Sec. 8-11-17. (Repealed).
(Source: P.A. 92-526, eff. 7-1-02. Repealed internally, eff. 1-1-03.)
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(65 ILCS 5/8-11-18) (from Ch. 24, par. 8-11-18)

Sec. 8-11-18. (Repealed).

(Source: P.A. 88-597, eff. 8-28-94. Repealed internally, eff. 9-6-97.)

# **Economic Incentive Agreements**

(65 ILCS 5/8-11-20)

Sec. 8-11-20. Economic incentive agreements. The corporate authorities of a municipality may enter into an economic incentive agreement relating to the development or redevelopment of land within the corporate limits of the municipality. Under this agreement, the municipality may agree to share or rebate a portion of any retailers' occupation taxes received by the municipality that were generated by the development or redevelopment over a finite period of time. Before entering into the agreement authorized by this Section, the corporate authorities shall make the following findings:

- (a) If the property subject to the agreement is vacant:
  - (1) that the property has remained vacant for at least one year, or
  - (2) that any building located on the property was demolished within the last year and that the building would have qualified under finding (2) of this Section;
- (b) If the property subject to the agreement is currently developed:
  - (1) that the buildings on the property no longer comply with current building codes, or
  - (2) that the buildings on the property have remained less than significantly unoccupied or underutilized for a period of at least one year;
- (c) That the project is expected to create or retain job opportunities within the municipality;
- (d) That the project will serve to further the development of adjacent areas;
- (e) That without the agreement, the project would not be possible;
- (f) That the developer meets high standards of creditworthiness and financial strength as demonstrated by one or more of the following:
  - (1) corporate debenture ratings of BBB or higher by Standard & Poor's Corporation or Baa or higher by Moody's Investors Service, Inc.;
  - (2) a letter from a financial institution with assets of \$10,000,000 or more attesting to the financial strength of the developer; or
  - (3) specific evidence of equity financing for not less than 10% of the total project costs;
- (g) That the project will strengthen the commercial sector of the municipality;
- (h) That the project will enhance the tax base of the municipality; and
- (i) That the agreement is made in the best interest of the municipality.

(Source: P.A. 92-263, eff. 8-7-01.)

# Agreements to Share or Rebate Occupation Taxes

(65 ILCS 5/8-11-21)

Sec. 8-11-21. Agreements to share or rebate occupation taxes.

(a) On and after June 1, 2004, the corporate authorities of a municipality shall not enter into any agreement to share or rebate any portion of retailers' occupation taxes generated by retail sales of tangible personal property if: (1) the tax on those retail sales, absent the agreement, would have been paid to another unit of local

government; and (2) the retailer maintains, within that other unit of local government, a retail location from which the tangible personal property is delivered to purchasers, or a warehouse from which the tangible personal property is delivered to purchasers. Any unit of local government denied retailers' occupation tax revenue because of an agreement that violates this Section may file an action in circuit court against only the municipality. Any agreement entered into prior to June 1, 2004 is not affected by this amendatory Act of the 93rd General Assembly. Any unit of local government that prevails in the circuit court action is entitled to damages in the amount of the tax revenue it was denied as a result of the agreement, statutory interest, costs, reasonable attorney's fees, and an amount equal to 50% of the tax.

(b) On and after the effective date of this amendatory Act of the 93rd General Assembly, a home rule unit shall not enter into any agreement prohibited by this Section. This Section is a denial and limitation of home rule powers and functions under subsection (g) of Section 6 of Article VII of the Illinois Constitution.

(Source: P.A. 93-920, eff. 8-12-04.)

#### MUNICIPAL TREASURER'S REFERENCE MANUAL

# **MUNICIPALITIES** (65 ILCS 5/) Illinois Municipal Code. (65 ILCS 5/Art. 8 Div. 1 heading) DIVISION 1. GENERAL PROVISIONS

#### VI. **BUDGET ACT AND APPROPRIATION ORDINANCE**

**DIVISION 1. GENERAL PROVISIONS** 

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PROMPT PAYMENT

#### Control of Finances

(65 ILCS 5/8-1-1) (from Ch. 24, par. 8-1-1)

Sec. 8-1-1. The corporate authorities may control the finances of the corporation.

(Source: Laws 1961, p. 576.)

# Internal Auditor

(65 ILCS 5/8-1-1.5)

Sec. 8-1-1.5. Internal auditor. The city council or board of trustees, as appropriate, may create the office of internal auditor. The duties of the internal auditor shall be to report directly to the council or board regarding the state of the finances of the municipality. The internal auditor may be appointed as provided by ordinance.

(Source: P.A. 93-483, eff. 1-1-04.)

# Appropriations—Payment of Debts and Expenses

(65 ILCS 5/8-1-2) (from Ch. 24, par. 8-1-2)

Sec. 8-1-2. The corporate authorities may appropriate money for corporate purposes only and provide for payment of debts and expenses of the corporation.

(Source: Laws 1961, p. 576.)

# Borrowing of Money—Limit of Indebtedness

(65 ILCS 5/8-1-3) (from Ch. 24, par. 8-1-3)

Sec. 8-1-3. The corporate authorities may borrow money on the credit of the corporation for corporate purposes, and issue bonds therefor, in such amounts and form, and on such conditions unless otherwise provided in this Code as the corporate authorities prescribe. Before, or at the time of incurring any indebtedness, the corporate authorities shall provide for the collection of a direct annual tax sufficient to pay the interest on the debt as it falls due, and also to pay and discharge the principal thereof within 20 years after contracting the debt.

(Source: Laws 1961, p. 576.)

#### **Borrowing Funds**

(65 ILCS 5/8-1-3.1) (from Ch. 24, par. 8-1-3.1)

Sec. 8-1-3.1. The corporate authorities may borrow money from one fund for the use of another fund providing such borrowing shall be repaid within the current fiscal year.

The corporate authorities may also borrow money from any bank or other financial institution provided such money shall be repaid within one year from the time the money is borrowed. "Financial institution" means any bank subject to the "Illinois Banking Act", any savings and loan association subject to the "Illinois Savings and Loan Act of 1985", and any federally chartered commercial bank or savings and loan association organized and operated in this State pursuant to the laws of the United States.

(Source: P.A. 84-1263.)

#### Refunding of Debt

(65 ILCS 5/8-1-4) (from Ch. 24, par. 8-1-4)

Sec. 8-1-4. The corporate authorities may provide for the consolidation or refunding of maturing bonds and the funding of judgment debts, and to issue bonds in place of maturing bonds or judgment debts.

(Source: Laws 1961, p. 576.)

## Supplementary Appropriation from Bond Issue

(65 ILCS 5/8-1-5) (from Ch. 24, par. 8-1-5)

Sec. 8-1-5. Whenever in any fiscal year an ordinance authorizing the issuance of bonds is approved by the electors in any municipality with a population of 500,000 or more, subsequent to the passage of the annual appropriation ordinance, the corporate authorities have the power, anything in this Code to the contrary notwithstanding, to make a supplemental appropriation of so much of the proceeds of the bonds, so authorized, as is required for expenditure during the remainder of the current fiscal year for the purpose set forth in the ordinance authorizing the issuance of the bonds.

(Source: Laws 1961, p. 576.)

# <u>Limitation—Emergency—Borrowing of Money</u>

(65 ILCS 5/8-1-6) (from Ch. 24, par. 8-1-6)

Sec. 8-1-6. Neither the corporate authorities nor any department or officer of any municipality shall add to the municipal expenditures in any fiscal year anything over and above the amount provided for in the annual appropriation ordinance of that year. No expenditure for an improvement to be paid for out of the general fund of the municipality shall exceed in any fiscal year the amount provided for that improvement in the annual appropriation ordinance.

However, nothing herein contained shall prevent the corporate authorities, by a two-thirds vote, from making additional appropriations for the purpose of making improvements or restorations, the necessity for which is caused by any casualty or accident happening after the annual appropriation ordinance is passed, nor from making additional appropriations necessary to meet any emergency, happening after and unforeseen at the time of passing the annual appropriation ordinance. Emergency, as used in this section, means a condition requiring immediate action to suppress or prevent the spread of disease, or to prevent or remove imminent danger to persons or property. For the purpose of providing for these additional appropriations, the corporate authorities, by a two-thirds vote, may authorize the mayor, or village president, and the finance committee, or in municipalities under the commission form of municipal government the mayor and commissioner of accounts and finances, to borrow the amount of money necessary therefor for a space of time not extending beyond the close of the next fiscal year. The sum borrowed and the interest thereon, shall be added to the amount authorized to be raised in the next general tax levy and embraced therein.

Should a judgment be obtained against a municipality, the mayor, or village president, and the finance committee, or the mayor and commissioner of accounts and finances, in commission form municipalities, under the sanction of the corporate authorities, may borrow a sufficient amount to pay the judgment for a space of time not extending beyond the close of the next fiscal year. This sum and the interest thereon shall in like manner be added to the amount authorized to be raised in the general tax levy of the next year and embraced therein.

This section shall not apply to municipalities operating under special charters. (Source: Laws 1961, p. 576.)

# <u>Contractual Liabilities—Limitation</u> (65 ILCS 5/8-1-7) (from Ch. 24, par. 8-1-7)

Sec. 8-1-7

(a) Except as provided otherwise in this Section, no contract shall be made by the corporate authorities, or by any committee or member thereof, and no expense shall be incurred by any of the officers or departments of any municipality, whether the object of the expenditure has been ordered by the corporate authorities or not, unless an appropriation has been previously made concerning that contract or expense. Any contract made, or any expense otherwise incurred, in violation of the

provisions of this section shall be null and void as to the municipality, and no money belonging thereto shall be paid on account thereof. However, pending the passage of the annual appropriation ordinance for any fiscal year, the corporate authorities may authorize heads of departments or other separate agencies of the municipality to make necessary expenditures for the support thereof upon the basis of the appropriations of the preceding fiscal year. However, if it is determined by two-thirds vote of the corporate authorities then holding office at a regularly scheduled meeting of the corporate authorities that it is expedient and in the best public interest to begin proceedings for the construction of a needed public work, then the provisions of this section shall not apply to the extent that the corporate authorities may employ or contract for professional services necessary for the planning and financing of such public work.

- (b) Notwithstanding any provision of this Code to the contrary, the corporate authorities of any municipality may make contracts for a term exceeding one year and not exceeding the term of the mayor or president holding office at the time the contract is executed, relating to:
  - (1) the employment of a municipal manager, administrator, engineer, health officer, land planner, finance director, attorney, police chief or other officer who requires technical training or knowledge;
  - (2) the employment of outside professional consultants such as engineers, doctors, land planners, auditors, attorneys or other professional consultants who require technical training or knowledge;
  - (3) the provision of data processing equipment and services; or
  - (4) the provision of services which directly relate to the prevention, identification or eradication of disease. In such case the corporate authorities shall include in the annual appropriation ordinance for each fiscal year, an appropriation of a sum of money sufficient to pay the amount which, by the terms of the contract, is to become due and payable during the current fiscal year.
- (c) This section shall not apply to municipalities operating under special charters.
- (d) In order to promote orderly collective bargaining relationships, to prevent labor strife and to protect the interests of the public and the health and safety of the citizens of Illinois, this Section shall not apply to multi-year collective bargaining agreements between public employers and exclusive representatives governed by the provisions of the Illinois Public Labor Relations Act.
  - Notwithstanding any provision of this Code to the contrary, the corporate authorities of any municipality may enter into multi-year collective bargaining agreements with exclusive representatives under the provisions of the Illinois Public Labor Relations Act.
- (e) Notwithstanding any provision of this Code to the contrary, the corporate authorities of any municipality may enter into any multi-year contract or otherwise associate for any term under the provisions of Section 10 of Article VII of the Illinois Constitution or the Intergovernmental Cooperation Act.

(Source: P.A. 90-517, eff. 8-22-97.)

#### Signature of Warrants

(65 ILCS 5/8-1-8) (from Ch. 24, par. 8-1-8)

Sec. 8-1-8. All warrants drawn upon the municipal treasurer must be signed by the mayor or president and countersigned by the municipal clerk, or the city comptroller if there is one, stating the particular fund and the appropriation to which the warrant is chargeable, and the person to whom payable. No money shall be paid otherwise than upon such warrants so drawn, except as otherwise provided.

(Source: Laws 1961, p. 576.)

## Warrants—Limitation on Drawing

(65 ILCS 5/8-1-9) (from Ch. 24, par. 8-1-9)

Sec. 8-1-9. No warrant payable on demand shall be drawn upon the municipal treasurer or against any fund in his possession unless at the time of the drawing there is sufficient money in the appropriate fund in the municipal treasury to pay the warrant.

(Source: Laws 1961, p. 576.)

# Deposits of Special Assessment Money—Use of Interest

(65 ILCS 5/8-1-10) (from Ch. 24, par. 8-1-10)

Sec. 8-1-10. Interest received by a municipality upon deposits of money derived from special assessments or special taxes and that part of the interest, penalties, and costs received on account of any delinquent special assessment or special tax, which is in excess of 6% annually on the amount of that delinquent special assessment or special tax from the date of the first voucher issued on account of work done to the date of the receipt of the interest, penalties, and costs by the municipality, shall be used first for paying any expense of the municipality in connection with the collection or withdrawal from collection of any delinquent special assessment or special tax or the preservation of the lien thereof, or in connection with the sale or forfeiture of any real estate for delinquent special assessments or special taxes, or in the preservation of the lien of any certificate of sale or tax deed, and secondly shall be used to pay any warrant, for which there are not sufficient funds, for the payment of past due principal or interest on vouchers and bonds issued in anticipation of the collection of the special assessments or special taxes identified by such warrant. (Source: Laws 1961, p. 576.)

# <u>Warrants Issued in Anticipation of Taxes—Limitation—Enforcement—Payment</u> (65 ILCS 5/8-1-11) (from Ch. 24, par. 8-1-11)

Sec. 8-1-11. Whenever a municipality does not have sufficient money in its treasury to meet all necessary expenses and liabilities of the municipality, including all expenses for building purposes, the corporate authorities may issue and sell warrants drawn against and in anticipation of taxes already levied for the particular funds from which these expenses and liabilities may be paid, to the extent of 85% of the total amount of those taxes. However, in municipalities in which there has been created a working cash fund pursuant to the provisions of Division 6 of this Article 8, no tax anticipation warrants shall be drawn against taxes levied for general corporate purposes for such an amount that the aggregate of

(1) the amount of those warrants, and the interest to accrue thereon, and

- (2) the aggregate amount of those warrants theretofore drawn against those taxes and the interest accrued and to accrue thereon, and
- (3) the aggregate amount of money theretofore transferred from the working cash fund to the general fund of that municipality,

exceeds 90% of the actual or estimated amount of those taxes extended or to be extended by the county clerk upon the books of the collector or collectors of state and county taxes within that municipality. Tax anticipation warrants drawn and issued under this section shall show upon their face that they are payable in the numerical order of their issuance solely from the anticipated taxes when these anticipated taxes are collected and not otherwise. These warrants shall be received by any collector of taxes in payment of the taxes against which they are issued, and the taxes against which these warrants are drawn shall be set apart and held for their payment.

(Source: P.A. 81-165.)

# Warrants—Interest—Notice of Payment (65 ILCS 5/8-1-12) (from Ch. 24, par. 8-1-12)

Sec. 8-1-12. Each warrant issued under Section 8-1-11 may be made payable at the time fixed in the warrant and shall bear interest, payable only out of the taxes against which it is drawn, at a rate not to exceed the maximum rate authorized by the Bond Authorization Act, as amended at the time of the making of the contract, from the date of its issuance until paid, or until notice that the money for its payment is available, and that it will be paid on presentation, is given by publication in one or more newspapers published in the municipality, or, if no newspaper is published therein, then in one or more newspapers with a general circulation within the municipality. In municipalities with less than 500 population in which no newspaper is published, publication may instead be made by posting a notice in 3 prominent places within the municipality. However, a lower rate of interest may be specified in the warrant, in which case the interest shall be computed and paid at that lower rate. The amendatory Acts of 1971, 1972 and 1973 are not a limit upon any municipality which is a home rule unit.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly

- (i) that the Omnibus Bond Acts are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts,
- (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and
- (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

(Source: P.A. 86-4.)

## Purchase of Securities

(65 ILCS 5/8-1-13) (from Ch. 24, par. 8-1-13)

Sec. 8-1-13. Every municipality holding in its treasury funds which are set aside for use for particular purposes, but which are not immediately necessary for those purposes, by ordinance, may use those funds, or any of them, in the purchase of tax anticipation warrants issued by the municipality possessing the funds against taxes levied by that municipality. These warrants shall bear interest not to exceed the maximum rate authorized by the Bond Authorization Act, as amended at the time of the making of the contract. All interest upon these warrants, and all money paid in redemption of these warrants or received from the resale thereof, shall at once be credited to and placed in the particular fund used to purchase the specified warrants.

However, a municipality so using any of its funds for the purchase of such tax anticipation warrants shall not apply to the payment thereof while so held by it any taxes against and in anticipation of which the warrants were issued, unless and until all warrants and the interest thereon, issued by that municipality against and in anticipation of the same taxes and sold to other purchasers have been first paid or money sufficient for the payment thereof has been deposited in the municipal treasury as a special fund to be used solely for the purpose of paying to the other purchasers the warrants and the interest thereon when presented. Nothing contained in this section shall prevent the resale or reissue of any warrants as provided in Section 8-1-14.

Likewise, every municipality by ordinance may use the money in those funds in the purchase of bonds issued by the municipality, possessing the funds and representing the obligation and pledging the credit of that municipality, or bonds and other interest bearing obligations of the United States or of the State of Illinois. All interest upon these bonds or obligations and all money paid in redemption of these bonds or obligations or realized from the sale thereof, if afterwards sold, shall at once be credited to and placed in the particular fund used to purchase specified bonds or obligations.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly

- (i) that the Omnibus Bond Acts are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts,
- (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and
- (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

(Source: P.A. 86-4.)

#### Resale or Issuance of New Warrants

(65 ILCS 5/8-1-14) (from Ch. 24, par. 8-1-14)

Sec. 8-1-14. If at any time it is deemed expedient to convert into money any tax anticipation warrants theretofore issued and purchased with public funds pursuant to the provisions of Section 8-1-13, before receipt of the taxes in anticipation of which the

warrants were issued, the corporate authorities of the municipality, by ordinance or resolution, may authorize a resale of such warrants and adjust the interest rate thereon, or may authorize the issuance and sale of a like principal amount of new warrants for the same purpose and in anticipation of the same taxes as the original warrants were issued. These new warrants may have any date subsequent to the date of the original tax anticipation warrants. The new tax anticipation warrants shall be of the denomination and shall bear interest at the rate, not to exceed the statutory rate, that is authorized by the ordinance or resolution specified in this section. In a municipality which constitutes a school district, and in which the corporate authorities are required annually to levy all school taxes, the issuance of such new warrants in anticipation of school taxes, or the resale of such original warrants with adjusted interest rate, shall be approved by the board of education of that school district.

Simultaneously with the delivery of these new tax anticipation warrants, a like principal amount of the original warrants that were issued against the same tax that is anticipated by the new warrants shall be paid and cancelled. The proceeds of the sale of these new tax anticipation warrants shall be used first to restore to the fund or funds so invested in the original tax anticipation warrants, money equivalent to the par value and accrued interest of the original tax anticipation warrants and the balance, if any, shall revert to the fund for the creation of which the tax so anticipated was levied. Warrants resold or reissued pursuant to the provisions of this section shall have the same incidents of priority with respect to payment and shall be paid in all respects in the same manner as other warrants issued in anticipation of the same tax and sold in the first instance to any purchaser other than the issuing municipality.

When tax anticipation warrants are reissued they shall bear the index numerical designation of the original warrants and shall be subnumbered consecutively in the order of reissuance, and shall be paid in the direct order of reissuance, beginning with the earliest subnumber.

In determining the priority of payment of more than one series of tax anticipation warrants against the collection of the same tax, the various series shall be treated as having been issued on the date of the original issue of each series of warrants. The series prior in point of time as thus determined shall be paid first.

(Source: Laws 1961, p. 576.)

# Advancement of Municipal Funds to Pay Condemnation Judgments (65 ILCS 5/8-1-15) (from Ch. 24, par. 8-1-15)

Sec. 8-1-15. Any municipality having a population of 500,000 or more, holding in its treasury any fund set aside for use for a particular purpose that is not immediately necessary for that purpose, at any time by ordinance may advance the money in that fund, or such part thereof as may be required, to the board of local improvements of that municipality. The board shall apply this money toward the payment of any final judgment of condemnation rendered in any proceeding involving the taking or damaging of private property for a local improvement of that municipality, the cost of which is to be defrayed wholly or partly by special assessment or special taxation.

Before any money is actually so advanced, the corporate authorities, by the same ordinance, shall require the board of local improvements to execute and deposit with the comptroller of the municipality a written pledge or security to the entire extent of the special assessment or special tax, for the repayment of the advance out of the proceeds of the special assessment or special tax. The comptroller shall give a written receipt for this pledge or security. After such a pledge or security is so executed and deposited, all money paid on account of the principal and interest of the special assessment or special tax shall be at once credited to and placed in the fund from which the advance was made until the fund is reimbursed for the advance made therefrom. Thereupon, the corporate authorities by ordinance may cancel and release the pledge or security. The entire amount of the advance shall be repaid to the specified fund within 5 years from the date of the passage of the ordinance providing for the advance.

An advance shall bear interest at a rate not to exceed the maximum rate authorized by the Bond Authorization Act, as amended at the time of the making of the contract. The corporate authorities shall make provision for the payment, out of any corporate funds legally available therefor, of any part of this interest which is in excess of the interest paid on account of the special assessment or special tax and placed in the specified fund.

If there is no comptroller in the municipality, the municipal clerk shall perform the duties of the comptroller specified in this section.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly

- (i) that the Omnibus Bond Acts are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts,
- (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and
- (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

(Source: P.A. 86-4.)

#### Tax to Pay Judgments

(65 ILCS 5/8-1-16) (from Ch. 24, par. 8-1-16)

Sec. 8-1-16. In any municipality with a population of 500,000 or more the corporate authorities may levy a tax annually upon all the taxable property in the municipality at a rate that will produce not to exceed \$4,500,000 upon the valuation to be ascertained by the assessment of such property for purposes of taxation for the year in which each such levy is made. This tax, if levied, shall be for the purpose of paying judgments entered against the municipality prior to January 1, 1941, and tort judgments and judgments for damage to or for the taking of private property for public use entered after January 1, 1941. This tax shall be levied and collected in the same manner as the general taxes of the municipality. It shall be known as the judgment tax and shall be in addition to the maximum of all other

taxes which the municipality is now, or may be hereafter, authorized by law to levy upon the aggregate valuation of all taxable property within the municipality.

All money received from this tax shall be set apart in a separate fund and shall be used solely for the purpose of paying judgments as provided for in this section. Judgments against the municipality shall be paid out of this fund in the order in which the judgments were obtained. This order of payment shall not apply to judgments of \$1000 or less, which judgments may be paid out of said order and in the order in which these judgments of \$1000 or less were obtained.

Interest accrued on these judgments shall be paid with the principal thereof. However, the interest accrued to any particular date on all judgments payable out of this fund may be paid ratably at any time without payment of the principal thereof. Warrants issued in anticipation of the judgment tax under the provisions of Sections 8-1-11 and 8-1-12 shall bear interest at a rate not to exceed the maximum rate authorized by the Bond Authorization Act, as amended at the time of the making of the contract.

With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of this amendatory Act of 1989, it is and always has been the intention of the General Assembly

- (i) that the Omnibus Bond Acts are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts,
- (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and
- (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

(Source: P.A. 86-4.)

# Funds Received Pursuant to Comprehensive Employment and Training Act of 1973 (65 ILCS 5/8-1-17) (from Ch. 24, par. 8-1-17)

Sec. 8-1-17. The corporate authorities of any municipality may receive funds from the United States pursuant to the "Comprehensive Employment and Training Act of 1973", Public Law 93-203, and may disburse such funds together with any other municipal funds for the purposes specified in that public law.

The provisions of this Section are not a limitation on the powers of a home rule municipality.

(Source: P.A. 79-389.)

#### Prompt payment

(65 ILCS 5/8-1-18) (from Ch. 24, par. 8-1-18)

Sec. 8-1-18. Purchases made pursuant to this Act shall be made in compliance with the "Local Government Prompt Payment Act", approved by the Eighty-fourth General Assembly.

(Source: P.A. 84-731.)

#### MUNICIPAL TREASURER'S REFERENCE MANUAL

## **MUNICIPALITIES**

(65 ILCS 5/) Illinois Municipal Code. (65 ILCS 5/Art. 8 Div. 2 heading) DIVISION 2. ANNUAL APPROPRIATION ORDINANCES

#### VI. BUDGET ACT AND APPROPRIATION ORDINANCE

DIVISION 2. ANNUAL APPROPRIATION ORDINANCES

ANNUAL APPROPRIATION ORDINANCE

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# **Annual Appropriation Ordinance**

(65 ILCS 5/8-2-1) (from Ch. 24, par. 8-2-1)

Sec. 8-2-1. Pursuant to the provisions of Sections 8-2-1 through 8-2-8, the corporate authorities in municipalities with a population of 500,000 or more, shall pass an ordinance within the last 60 days of each fiscal year, to be termed the annual appropriation ordinance. In this ordinance the corporate authorities, subject to the limitations contained in Sections 8-2-1 through 8-2-8, may appropriate such sums of money as are deemed necessary to defray all necessary expenses and liabilities of the municipality to be paid or incurred during the next fiscal year.

(Source: Laws 1961, p. 576.)

Executive Budget for Ensuing Fiscal Year

(65 ILCS 5/8-2-2) (from Ch. 24, par. 8-2-2)

Sec. 8-2-2. Prior to November 15 of each year, the mayor in municipalities specified in Section 8-2-1 shall submit to the corporate authorities the executive budget for the ensuing fiscal year as prepared by the budget director of the municipality and approved by the mayor. The executive budget, as the same may be revised or altered by the corporate authorities, shall provide the basis upon which the annual appropriation ordinance is prepared and enacted.

The budget document shall set forth estimates, by classes, of all current assets and liabilities of each fund of the municipality, as of the beginning of the fiscal year, for which appropriations are to be made, and the amount of those assets which will be available for appropriation in that year, either for expenditures or charges to be made or incurred during that year or for liabilities unpaid at the beginning thereof. Estimates of taxes to be received from the levies of prior years shall be net, after deducting the amounts estimated to be sufficient to cover the loss and cost of collecting these taxes. These amounts shall include

- (1) uncollectible taxes,
- (2) the cost of collecting taxes,
- (3) the amount of these taxes for the nonpayment of which real estate has been or will be forfeited to the State, and
- (4) the abatement in the amount of these taxes extended or to be extended upon the collector's books.

In order to secure net estimates there also shall be deducted the principal of all unpaid tax anticipation warrants and all interest accrued thereon and an amount estimated to be sufficient to cover all interest to accrue thereon until redemption of these tax anticipation warrants. Estimates of the liabilities of the respective funds shall include

- (1) all final judgments, including accrued interest thereon, entered against the municipality and unpaid at the beginning of the fiscal year for which the appropriations are made,
- (2) any amount for which the corporate authorities of the municipality are required to reimburse the working cash fund from the general corporate fund pursuant to the provisions of Division 6 of this Article 8,
- (3) the taxes levied for the purposes of the reserves provided for in the Illinois Pension Code, as now or hereafter amended, and
- (4) all other liabilities.

However, for the purpose of these estimates, judgments, for the payment of which a special tax has been authorized by law, shall not be deemed liabilities of the general corporate fund of the municipality. Also, estimates of taxes to be received from the levies of the years prior to 1945 for general corporate purposes and estimates of the liabilities of the general corporate fund incurred prior to January 1, 1945, shall not be included in the budget document. The budget document shall also set forth detailed estimates of all taxes to be levied for the fiscal year for which the appropriations are to be made, and detailed estimates of all other current revenue to be derived from sources other than such taxes, which will be applicable to expenditures or charges to be made or incurred during that year. All of these estimates shall be so segregated and classified as to funds and in such other manner as to give effect to the requirements of law relating to the respective purposes to which these assets, taxes, and other current revenue are applicable to the end that no expenditure shall be authorized or made for any purpose in excess of funds lawfully available therefor.

(Source: Laws 1965, p. 2505.)

# Proposed appropriations

(65 ILCS 5/8-2-3) (from Ch. 24, par. 8-2-3)

Sec. 8-2-3. Proposed appropriations in municipalities specified in Section 8-2-1 shall be arranged according to funds and also according to departments and other separate agencies of the municipal government. The budget document shall specify the objects and purposes for which appropriations are to be made and the amount proposed to be appropriated for each object or purpose. It shall include proposed appropriations for

- (1) all current expenditures or charges to be made or incurred during the fiscal year for which appropriations are made;
- (2) all final judgments, including accrued interest thereon, entered against the municipality and unpaid at the beginning of that fiscal year,
- (3) any amount for which the corporate authorities of the municipality are required to reimburse the working cash fund from the general corporate fund pursuant to the provisions of Division 6 of this Article 8,
- (4) the taxes levied for the purposes of the reserves provided for in the Illinois Pension Code, as now or hereafter amended,
- (5) all other liabilities, and
- (6) an amount estimated to be sufficient to cover the loss and cost of collecting taxes to be levied for that fiscal year.

This last designated amount shall include

- (1) uncollectible taxes,
- (2) the cost of collecting taxes
- (3) the amount of taxes levied for the nonpayment of which real estate will be forfeited to the state, and
- (4) the amount of taxes extended upon the collector's books which will be abated. However, the corporate authorities of the municipality shall not be required to appropriate any amount from the general corporate fund of the municipality for the payment of any judgment, for which a special tax has been authorized by law, or for the payment of any other liability of the general corporate fund incurred prior to January 1, 1945. (Source: Laws 1965, p. 2505.)

#### Classifications

(65 ILCS 5/8-2-4) (from Ch. 24, par. 8-2-4)

Sec. 8-2-4. The objects and purposes for which appropriations shall be made in municipalities specified in Section 8-2-1 are classified and standardized by the following items, and by such items shall be designated in the budget document, and the annual appropriation ordinance:

- (1) Personal services
- (2) Contractual services
- (3) Travel
- (4) Commodities
- (5) Equipment
- (6) Permanent improvements
- (7) Land

#### (8) Contingencies

An appropriation in one or more of the items above specified shall be construed in accordance with the definitions and limitations specified in Sections 8-2-1 through 8-2-8, unless the appropriation ordinance otherwise provides. An appropriation for a purpose other than one specified and defined in this section and in Section 8-2-5 may be made only as an additional, separate and distinct item, specifically stating the object and purpose thereof.

(Source: Laws 1961, p. 576.)

#### **Definitions**

(65 ILCS 5/8-2-5) (from Ch. 24, par. 8-2-5)

Sec. 8-2-5. The items specified in Section 8-2-4 when used in the budget document and appropriation ordinance of municipalities specified in Section 8-2-1 are defined as follows:

- (1) "Personal services": the reward or recompense made for personal services rendered for the municipality by an individual as an officer or employee of a municipality or an instrumentality thereof, or as an independent contractor, including any amount required to be deducted from the reward or recompense of any such person under the provisions of any retirement or tax law, or both.
- (2) "Contractual service": the expenditures incident to the completion of a project or the current conduct and operation of an office, department, board, commission or agency, including, but not limited to, postage and postal charges, surety bond premiums, title insurance, publications, office conveniences and services, exclusive of "commodities" as herein defined, and including also expenditures for rental of property or equipment, repair or maintenance of property or equipment, utility services, professional or technical services, and transportation charges exclusive of "travel" as herein defined.
- (3) "Travel": any expenditure directly incident to official travel by municipal officers and employees or by wards or charges of the municipality involving reimbursement to travelers or direct payment to private agencies providing transportation or related services.
- (4) "Commodities": expenditures in connection with current operation and maintenance for the purchase of articles of a consumable nature which show a material change or appreciable depreciation with first usage, repair parts, and small tools having a unit value not in any instance exceeding \$10.
- (5) "Equipment": expenditures for the acquisition, replacement or increase of visible tangible personal property of a non-consumable nature, including livestock.
- (6) "Permanent improvements": expenditures for the acquisition, enlargement or improvement of existing buildings and structures (other than repair), the erection or construction of any structure or work which constitutes a substantial addition to real estate, including the total cost thereof in labor, material and supplies and any other costs and charges necessary or incident to the completion of the building or structure but not including "equipment" as herein defined.
- (7) "Land": expenditures for the acquisition of real estate (or rights therein other than leasehold interests obtained through rental), and consequential damage to real estate occasioned by public improvements, whether obtained by purchase or by

- condemnation under the eminent domain laws of the state, and for expenses necessarily incidental to such purchase or condemnation.
- (8) "Contingencies": expenditures for purposes not covered in any other item, which purposes could not reasonably have been foreseen and provided for at the time of the enactment of the appropriation ordinance. The amount of any such contingency item for any office, department, board, commission or agency shall in no case exceed \$100,000.

(Source: Laws 1961, p. 576.)

# <u>Budget Document; Availability; Hearing; Limitations on Appropriations</u> (65 ILCS 5/8-2-6) (from Ch. 24, par. 8-2-6)

Sec. 8-2-6. Budget document; availability; hearing; limitations on appropriations.

- (a) The corporate authorities in municipalities specified in Section 8-2-1 shall make the budget document as submitted by the mayor conveniently available to public inspection for at least 10 days before the passage of the annual appropriation ordinance, by publication in the journal of the proceedings of the corporate authorities or in another form prescribed by the corporate authorities.
- (b) Not less than one week after the publication of the budget document, and before final action on the appropriation ordinance, the corporate authorities shall hold at least one public hearing on the budget document. Notice of this hearing shall be given by publication in a newspaper having a general circulation in the municipality at least one week before the time of the hearing. After the public hearing and before final action is taken on the appropriation ordinance, the corporate authorities may revise, alter, increase, or decrease the items contained in the budget document. Upon completion of its action on the budget document, the corporate authorities shall enact the budget document as so revised as the annual appropriation ordinance.
- (c) All of the requirements pertaining to the form and substance of the budget document, including limitations, as prescribed in Sections 8-2-1 through 8-2-8, shall be applicable to the appropriation ordinance. Detailed schedules supporting the appropriation ordinance shall be attached to the ordinance and shall be published in the official record of the municipalities simultaneously with the appropriation ordinance, but shall not be considered as an official part of the ordinance.
- (d) The aggregate amount finally appropriated by the appropriation ordinance, including any subsequent amendment of the ordinance, from any fund or for any purpose (including amounts appropriated for judgments and all other unpaid liabilities and all other purposes for which the corporate authorities are by this Section or otherwise by law required to appropriate) shall not exceed the aggregate amount available in that fund or for that purpose as shown by the estimates of the available assets thereof at the beginning of the fiscal year for which appropriations are made and of taxes and other current revenue set forth in the budget document as submitted to the corporate authorities or as revised by the budget director. If the appropriations from any fund as set forth in the appropriation ordinance as finally adopted exceed in the aggregate the maximum amount that the corporate authorities are authorized by this Section to appropriate from the fund, all

appropriations made from that fund by the appropriation ordinance are void. In this latter event, the several amounts appropriated for current operation and maintenance expense in the appropriation ordinance of the last preceding fiscal year shall be deemed to be appropriated for the fiscal year for which the void appropriations were made for the objects and purposes, respectively, as specified in the last preceding appropriation ordinance. The several amounts so deemed to be appropriated shall constitute lawful appropriations upon which taxes for the fiscal year for which the void appropriations were made may be levied under Section 8-3-1.

(e) The corporate authorities may amend the annual appropriation ordinance at their next regular meeting occurring not less than 5 days after the passage of the ordinance, in the same manner as other ordinances. If any item of appropriation contained in the appropriation ordinance is vetoed by the mayor, with a recommendation for a change in that item, the adoption of the recommendation by a yea and nay vote shall be regarded as the equivalent of an amendment of the annual appropriation ordinance with the same effect as if an amendatory ordinance were duly passed. The appropriation ordinance, as originally passed or as subsequently amended, also may be amended at any regular or special meeting of the corporate authorities held not more than 15 days after the first regular meeting of the corporate authorities occurring not less than 5 days after the passage of the ordinance, by repealing or reducing the amount of any item of appropriation contained in the ordinance.

(Source: P.A. 87-1119.)

# **Appropriations**

(65 ILCS 5/8-2-7) (from Ch. 24, par. 8-2-7)

Sec. 8-2-7. Except as otherwise specially provided by law, no further appropriations in municipalities specified in Section 8-2-1 shall be made prior to the passage of the next succeeding annual appropriation ordinance. However, during any fiscal year the corporate authorities in such municipalities may adopt a supplemental appropriation ordinance in an amount not in excess of the aggregate of any additional revenue available to the municipality, or estimated to be received by the municipality subsequent to the adoption of the annual appropriation ordinance for that fiscal year. Such supplemental appropriation ordinance shall only affect revenue that was not available for appropriation when that annual appropriation ordinance was adopted, and the provisions of Section 8-2-6 relating to publication, notice and public hearing shall not be applicable to such supplemental appropriation ordinance or to the budget document forming the basis of such ordinance. At any time during the fiscal year, the corporate authorities by a majority vote of all their members and upon request of the mayor, may make transfers within any department or other separate agency of the municipal government, of sums of money appropriated for one corporate object or purpose to another corporate object or purpose, but the aggregate of transfers from any appropriation shall not exceed 5% of the appropriation. At any time after the first half of each fiscal year, the corporate authorities may, by a two-thirds vote of all of their members, make transfers within any department or other separate agency of the municipal government, of sums of money appropriated for one corporate object or purpose to another corporate object or purpose in excess of the 5% limitation, but no appropriation

for any object or purpose shall by virtue of any transfer herein authorized be reduced below an amount sufficient to cover all obligations incurred or to be incurred against that appropriation.

(Source: Laws 1967, p. 2672.)

### Power of Payment

(65 ILCS 5/8-2-8) (from Ch. 24, par. 8-2-8)

Sec. 8-2-8. Nothing contained in Sections 8-2-1 through 8-2-7 shall deprive the corporate authorities of power to provide for the payment from the funds of the municipality of any charge imposed by law without the action of any corporate authority thereof, whenever the payment of the charge has been ordered by a court of competent jurisdiction.

(Source: Laws 1961, p. 576.)

## **Annual Appropriation Ordinance**

(65 ILCS 5/8-2-9) (from Ch. 24, par. 8-2-9)

Sec. 8-2-9. In municipalities with less than 500,000 inhabitants, the corporate authorities shall pass an ordinance within the first quarter of each fiscal year, to be termed the annual appropriation ordinance. In this ordinance, the corporate authorities

- (i) may appropriate sums of money deemed necessary to defray all necessary expenses and liabilities of the municipalities, including the amounts to be deposited in the reserves provided for in the Illinois Pension Code and
- (ii) shall specify the objects and purposes for which these appropriations are made and the amount appropriated for each object or purpose.

Among the objects and purposes specified shall be the reserves provided for in the Illinois Pension Code. Except as otherwise provided, no further appropriations shall be made at any other time within the same fiscal year, unless a proposition to make each additional appropriation has been first sanctioned by a petition signed by electors of the municipality numbering more than 50% of the number of votes cast for the candidates for mayor or president at the last preceding general municipal election at which a mayor or president was elected, by a petition signed by them, or by a majority of those voting on the question at a regular election or at an emergency referendum authorized in accordance with the general election law. The corporate authorities may by ordinance initiate the submission of the proposition. During any fiscal year, the corporate authorities in municipalities subject to this Section may adopt a supplemental appropriation ordinance in an amount not in excess of the aggregate of any additional revenue available to the municipality, or estimated to be received by the municipality after the adoption of the annual appropriation ordinance for that fiscal year, or from fund balances available when the annual appropriation ordinance was adopted but that were not appropriated at that time. The provisions of this Section prohibiting further appropriations without sanction by petition or election shall not be applicable to the supplemental appropriation for that fiscal year. The corporate authorities at any time, however, by a two-thirds vote of all the members of the body, may make transfers within any department or other separate agency of the municipal government of sums of money appropriated for one corporate object or purpose to another corporate object or purpose, but no appropriation for any object or purpose shall thereby be reduced below an amount sufficient to cover all obligations incurred or to be incurred against the appropriation. Nothing in this Section shall deprive the corporate authorities of

the power to provide for and cause to be paid from the funds of the municipality any charge imposed by law without the action of the corporate authorities, the payment of which is ordered by a court of competent jurisdiction.

At least 10 days before the adoption of the annual appropriation ordinance, the corporate authorities of municipalities over 2,000 in population shall make the proposed appropriation ordinance or a formally prepared appropriation or budget document upon which the annual appropriation ordinance will be based conveniently available to public inspection. In addition, the corporate authorities shall hold at least one public hearing on that proposed appropriation ordinance. Notice of this hearing shall be given publication in one or more newspapers published in the municipality or, if there is none published in the municipality, in a newspaper published in the county and having general circulation in the municipality at least 10 days before the time of the public hearing. The notice shall state the time and place of the hearing and the place where copies of the proposed appropriation ordinance or formally prepared appropriation or budget document will be accessible for examination. The annual appropriation ordinance may be adopted at the same meeting at which the public hearing is held or at any time after that public hearing.

After the public hearing and before final action is taken on the appropriation ordinance, the corporate authorities may revise, alter, increase, or decrease the items contained in the ordinance.

Notwithstanding any above provision of this Section, any municipality in which Article 5 becomes effective after the annual appropriation ordinance has been passed for the current fiscal year may amend the appropriation ordinance in any manner necessary to make Article 5 fully operative in that municipality for that fiscal year. No amendment shall be construed, however, to affect any tax levy made on the basis of the original appropriation ordinance.

This Section does not apply to municipalities operating under special charters. (Source: P.A. 86-1470; 87-365.)

# **Budget Officer**

(65 ILCS 5/8-2-9.1) (from Ch. 24, par. 8-2-9.1)

Sec. 8-2-9.1. Budget officer. Every municipality with a population of less than 500,000 (except special charter municipalities having a population in excess of 50,000) that has adopted this Section 8-2-9.1 and Sections 8-2-9.2 through 8-2-9.10 by a two-thirds majority vote of those members of the corporate authorities then holding office shall have a budget officer who shall be designated by the mayor or president, with the approval of the corporate authorities. In municipalities operating under the commission form of government, the commissioner of accounts and finances shall designate the budget officer, with the approval of the council or board of trustees, as the case may be. In municipalities with a managerial form of government, the municipal manager shall designate the budget officer. The budget officer shall take an oath and post a bond as provided in Section 3.1-10-25. The budget officer may hold another municipal office, either elected or appointed, and may receive compensation for both offices. Article 10 of this Code shall not apply to an individual serving as the budget officer. The budget officer shall serve at the pleasure of the mayor or municipal manager, as the case may be.

(Source: P.A. 87-1119.)

#### **Budget Officer Powers and Duties**

(65 ILCS 5/8-2-9.2) (from Ch. 24, par. 8-2-9.2)

Sec. 8-2-9.2. The municipal budget officer appointed in any municipality pursuant to Section 8-2-9.1 shall have the following powers and duties:

- (a) Permit and encourage and establish the use of efficient planning, budgeting, auditing, reporting, accounting, and other fiscal management procedures in all municipal departments, commissions, and boards.
- (b) Compile an annual budget in accordance with Section 8-2-9.3.
- (c) Examine all books and records of all municipal departments, commissions, and boards which relate to monies received by the municipality, municipal departments, commissions, and boards, and paid out by the municipality, municipal departments, commissions, and boards, debts and accounts receivable, amounts owed by or to the municipality, municipal departments, commissions, and boards.
- (d) Obtain such additional information from the municipality, municipal departments, commissions, and boards as may be useful to the budget officer for purposes of compiling a municipal budget, such information to be furnished by the municipality, municipal departments, commissions, and boards in the form required by the budget officer. Any department, commission or board which refuses to make such information as is requested of it available to the budget officer shall not be permitted to make expenditures under any subsequent budget for the municipality until such municipal department, commission, or board shall comply in full with the request of the budget officer.
- (e) Establish and maintain such procedures as shall insure that no expenditures are made by the municipality, municipal departments, commissions, or board except as authorized by the budget.

(Source: P. A. 76-1117.)

#### **Budget**

(65 ILCS 5/8-2-9.3) (from Ch. 24, par. 8-2-9.3)

Sec. 8-2-9.3. The municipal budget officer shall compile a budget, such budget to contain estimates of revenues available to the municipality for the fiscal year for which the budget is drafted, together with recommended expenditures for the municipality and all of the municipality's departments, commissions, and boards. Revenue estimates and expenditure recommendations shall be presented in a manner which is in conformity with good fiscal management practices. Substantial conformity to a chart of accounts, now or in the future, recommended by the National Committee on Governmental Accounting, or the Auditor of Public Accounts of the State of Illinois, or the Division of Local Governmental Affairs and Property Taxes of the Department of Revenue of the State of Illinois or successor agencies shall be deemed proof of such conformity. The budget shall contain actual or estimated revenues and expenditures for the two years immediately preceding the fiscal year for which the budget is prepared. So far as is possible, the fiscal data for such two preceding fiscal years shall be itemized in a manner which is in conformity with the chart of accounts approved above. Each budget shall show the specific fund from which each anticipated expenditure shall be made.

(Source: P.A. 91-357, eff. 7-29-99.)

# Passage of Annual Budget

(65 ILCS 5/8-2-9.4) (from Ch. 24, par. 8-2-9.4)

Sec. 8-2-9.4. Passage of the annual budget by the corporate authorities shall be in lieu of passage of the appropriation ordinance as required by Section 8-2-9 of this Act. The annual budget need not be published except in a manner provided for in Section 8-2-9.9. The annual budget shall be adopted by the corporate authorities before the beginning of the fiscal year to which it applies.

(Source: P. A. 76-1117.)

# Capital Improvement, Repair or Replacement Fund

(65 ILCS 5/8-2-9.5) (from Ch. 24, par. 8-2-9.5)

Sec. 8-2-9.5. In the preparation by the municipal budget officer of the annual budget, an amount not to exceed 3% of the equalized assessed value of property subject to taxation by the municipality may be accumulated in a separate fund for the purpose or purposes of specific capital improvements, repairs, and/or replacements of specific types of municipal equipment or other tangible property, both real and personal, to be designated as the "Capital Improvement, Repair or Replacement Fund". Expenditures from the Capital Improvement, Repair or Replacement Fund shall be budgeted in the fiscal year in which the capital improvement, repair or replacement will occur. Upon the completion or abandonment of any object for which the Capital Improvement, Repair or Replacement Fund, or should any surplus monies remain after the completion or abandonment of any object for which the Capital Improvement, Repair or Replacement Fund was inaugurated, then such funds no longer necessary for capital improvement, repair or replacement shall be transferred into the general corporate fund of the municipality on the first day of the fiscal year following such abandonment, completion, or discovery of surplus funds. (Source: P.A. 84-147.)

#### Revision of Annual Budget

(65 ILCS 5/8-2-9.6) (from Ch. 24, par. 8-2-9.6)

Sec. 8-2-9.6. The corporate authorities may delegate authority to heads of municipal departments, boards, or commissions to delete, add to, change or create sub-classes within object classes budgeted previously to the department, board, or commission, subject to such limitation or requirement for prior approval by the budget officer or executive officer of the municipality as the council, upon a two-thirds vote of the corporate authorities then holding office, may establish. By a vote of two-thirds of the members of the corporate authorities then holding office, the annual budget for the municipality may be revised by deleting, adding to, changing or creating sub-classes within object classes and object classes themselves. No revision of the budget shall be made increasing the budget in the event funds are not available to effectuate the purpose of the revision.

(Source: P. A. 76-1117.)

Funds for Contingency Purposes

(65 ILCS 5/8-2-9.7) (from Ch. 24, par. 8-2-9.7)

Sec. 8-2-9.7. Funds for contingency purposes. The annual budget may contain money set aside for contingency purposes not to exceed ten percent of the total budget, less the amount set aside for contingency purposes, which monies may be expended for contingencies upon a majority vote of the corporate authorities then holding office. (Source: P. A. 76-1117.)

# Tentative Annual Budget

(65 ILCS 5/8-2-9.9) (from Ch. 24, par. 8-2-9.9)

Sec. 8-2-9.9. The corporate authorities shall make the tentative annual budget conveniently available to public inspection for at least ten days prior to the passage of the annual budget, by publication in the journal of the proceedings of the corporate authorities or in such other form as the corporate authorities may prescribe. Not less than one week after the publication of the tentative annual budget, and prior to final action on the budget, the corporate authorities shall hold at least one public hearing on the tentative annual budget, after which hearing or hearings the tentative budget may be further revised and passed without any further inspection, notice or hearing. Notice of this hearing shall be given by publication in a newspaper having a general circulation in the municipality at least one week prior to the time of the hearing.

(Source: P. A. 76-1117.)

#### **Abandon Provisions**

(65 ILCS 5/8-2-9.10) (from Ch. 24, par. 8-2-9.10)

Sec. 8-2-9.10. Any municipality that has previously adopted the provisions of these Sections 8-2-9.1 through 8-2-9.9 may abandon the provisions hereof by a 2/3 majority vote of the corporate authorities then holding office.

(Source: P. A. 76-1117.)

#### Contract for Repair

(65 ILCS 5/8-2-9.11) (from Ch. 24, par. 8-2-9.11)

Sec. 8-2-9.11. Whenever any municipality has entered into a contract for the repair, remodeling, renovation or construction of a building or structure or the construction or maintenance of a road or highway, which provides for retention of a percentage of the contract price until final completion and acceptance of the work, upon the request of the contractor and with the approval of the municipality, the amount so retained may be deposited under a trust agreement with an Illinois bank of the contractor's choice and subject to the approval of the municipality. The contractor shall receive any interest thereon.

Upon application by the contractor, the trust agreement must contain, as a minimum, the following provisions:

- a. The amount to be deposited subject to the trust;
- b. The terms and conditions of payment in case of default of the contractor;
- c. The termination of the trust agreement upon completion of the contract; and
- d. The contractor shall be responsible for obtaining the written consent of the bank trustee, and any costs or service fees shall be borne by the contractor.

The trust agreement may, at the discretion of the municipality and upon request of the contractor, become operative at the time of the first partial payment in accordance with existing statutes, ordinances and municipality procedures.

(Source: P.A. 82-503.)

#### MUNICIPAL TREASURER'S REFERENCE MANUAL

# MUNICIPALITIES (65 ILCS 5/) Illinois Municipal Code. (65 ILCS 5/Art. 8 Div. 3 heading) DIVISION 3. LEVY AND COLLECTION OF TAXES

#### VI. BUDGET ACT AND APPROPRIATION ORDINANCE

DIVISION 3. LEVY AND COLLECTION OF TAXES

MANNER OF LEVY AND COLLECTION; MAXIMUM RATE OF TAXES; INCREASE OF MAXIMUM RATE: FUNDS ON HAND, TRANSFER AND **ACCUMULATION** ACCUMULATION OF SURPLUS FOR BUILDING PROJECTS; REFERENDUM **COLLECTION AND PAYMENT** TIME FOR PAYING OVER; LIBRARY TAXES TAX LEVIED AND SET APART FOR PARTICULAR PURPOSE **UNIFORMITY** MUNICIPALITIES UNDER SPECIAL ACTS; MANNER OF LEVY AND COLLECTION TAX RATE: LIMITATION UNDER SPECIAL ACTS PUBLIC TRANSPORTATION FOR ELDERLY AND HANDICAPPED; TAX; PETITION: ELECTION PROPERTY DESTROYED BY FIRE; REBATE OF TAXES PROPERTY DESTROYED BY FIRE; REDUCTION OF TAX OR SPECIAL **ASSESSMENT** SURPLUS FUND OR TAX; UNIFORMITY OF DISTRIBUTION AMOUNT OF DRAWBACK SCHOOLS; ANNEXED TERRITORY IN CERTAIN CITIES UNDER SPECIAL **CHARTER; TAXATION** TOURISM, CONVENTIONS AND OTHER SPECIAL EVENTS PROMOTION **ACT OF 1967** HOTEL ROOMS; TAX ON GROSS RENTAL RECEIPTS TAX COLLECTION; ENFORCEMENT TAX FOR EMERGENCY SERVICES AND DISASTER OPERATIONS TAX ON COLLEGE TUITION OR FEES

Manner of Levy and Collection; Maximum Rate of Taxes; Increase of Maximum Rate; Funds on Hand, Transfer and Accumulation

QUALIFIED PROGRAMS; DEFINITION

HOME RULE REAL ESTATE TRANSFER TAXES

(65 ILCS 5/8-3-1) (from Ch. 24, par. 8-3-1)

Sec. 8-3-1. The corporate authorities may levy and collect taxes for corporate purposes. They shall do this in the following manner:

On or before the last Tuesday in December in each year, the corporate authorities shall ascertain the total amount of appropriations legally made or budgeted for and any

ABATEMENT OF TAXES FOR TAXPAYERS MAKING DONATIONS TO

amount deemed necessary to defray additional expenses and liabilities for all corporate purposes to be provided for by the tax levy of that year. Then, by an ordinance specifying in detail in the manner authorized for the annual appropriation ordinance or budget of the municipality, the purposes for which the appropriations, budgeting or such additional amounts deemed necessary have been made and the amount assignable for each purpose respectively, the corporate authorities shall levy upon all property subject to taxation within the municipality as that property is assessed and equalized for state and county purposes for the current year.

A certified copy of this ordinance shall be filed with the county clerk of the proper county. He shall ascertain the rate per cent which, upon the value of all property subject to taxation within the municipality, as that property is assessed or equalized by the Department of Revenue, will produce a net amount of not less than the total amount so directed to be levied. The county clerk shall extend this tax in a separate column upon the books of the collector of state and county taxes within the municipality.

However, in ascertaining the rate per cent in municipalities having a population of 500,000 or more, the county clerk shall not add to the amount of the tax so levied for any purpose any amount to cover the loss and cost of collecting the tax, except in the case of amounts levied for the payment of bonded indebtedness, or interest thereon, and in the case of amounts levied for the purposes of pension funds.

Where the corporate limits of a municipality lie partly in 2 or more counties, the corporate authorities shall ascertain the total amount of all taxable property lying within the corporate limits of that municipality in each county, as the property is assessed or equalized by the Department of Revenue for the current year, and shall certify the amount of taxable property in each county within that municipality under the seal of the municipality, to the county clerk of the county where the seat of government of the municipality is situated. That county clerk shall ascertain the rate per cent which, upon the total valuation of all property subject to taxation within that municipality, ascertained as provided in this Section, will produce a net amount not less than the total amount directed to be levied. As soon as that rate per cent is ascertained, that clerk shall certify the rate per cent under his signature and seal of office to the county clerk of each other county wherein a portion of that municipality is situated. A county clerk to whom a rate per cent is certified shall extend the tax in a separate column upon the books of the collector of state and county taxes for his county against all property in his county within the limits of that municipality.

But in municipalities with 500,000 or more inhabitants, the aggregate amount of taxes so levied exclusive of the amount levied for the payment of bonded indebtedness, or interest thereon, and exclusive of taxes levied for the payment of judgments, for which a special tax is authorized by law, and exclusive of the amounts levied for the purposes of pension funds, working cash fund, public library, municipal tuberculosis sanitarium, the propagation and preservation of community trees, and exclusive of taxes levied pursuant to Section 19 of the Illinois Emergency Services and Disaster Agency Act of 1975 and for the general assistance for needy persons lawfully resident therein, shall not exceed the estimated amount of taxes to be levied for each year for the purposes specified in Sections 8-2-2 through 8-2-5 and set forth in its annual appropriation

ordinance and in any supplemental appropriation ordinance authorized by law for that year.

In municipalities with less than 500,000 inhabitants, the aggregate amount of taxes so levied for any one year, exclusive of the amount levied for the payment of bonded indebtedness, or interest thereon, and exclusive of taxes levied pursuant to Section 13 of the Illinois Civil Defense Act of 1951 and exclusive of taxes authorized by this Code or other Acts which by their terms provide that those taxes shall be in addition to taxes for general purposes authorized under this Section, shall not exceed the rate of .25%, or the rate limit in effect on July 1, 1967, whichever is greater, and on a permanent basis, upon the aggregate valuation of all property within the municipality subject to taxation therein, as the property is equalized or assessed by the Department of Revenue for the current year. However, if the maximum rate of such municipality for general corporate purposes is less than .20% on July 1, 1967, the corporate authorities may, without referendum, increase such maximum rate not to exceed .25%; but such maximum rate shall not be raised by more than 1/2 of such increase in any one year.

However, if the corporate authorities of a municipality with less than 500,000 inhabitants desire to levy in any one year more than .25%, or the rate limit in effect on July 1, 1967, whichever is greater, and on a permanent basis, but not more than .4375% for general corporate purposes, exclusive of the amount levied for the payment of bonded indebtedness, or interest thereon, and exclusive of taxes authorized by this Code or other Acts which by their terms provide that those taxes shall be in addition to taxes for general purposes authorized under this Section the corporate authorities, by ordinance, stating the per cent so desired, may order a proposition for the additional amount to be submitted to the electors of that municipality at any election. The clerk shall certify the proposition to the proper election authority who shall submit the question to the electors at such election. If a majority of the votes cast on the proposition are in favor of the proposition, the corporate authorities of that municipality may levy annually for general corporate purposes, exclusive of the amount levied for the payment of bonded indebtedness, or interest thereon, and exclusive of taxes authorized by this Code or other Acts which by their terms provide that those taxes are in addition to taxes for general purposes authorized under this Section a tax in excess of .25%, or the rate in effect on July 1, 1967, whichever is greater, and on a permanent basis, but not exceeding the per cent mentioned in the proposition.

Any municipality voting after August 1, 1969, to increase its rate limitation for general corporate purposes under this Section shall establish such increased rate limitation on an ongoing basis unless otherwise changed by referendum.

In municipalities that are not home rule units, any funds on hand at the end of the fiscal year, which funds are not pledged for or allocated to a particular purpose, may by action of the corporate authorities be transferred to the capital improvement fund and accumulated therein, but the total amount accumulated in such fund may not exceed 3% of the aggregate assessed valuation of all taxable property in the municipality.

(Source: P.A. 87-17.)

# Accumulation of Surplus for Building Projects; Referendum

(65 ILCS 5/8-3-1.1) (from Ch. 24, par. 8-3-1.1)

Sec. 8-3-1.1. The corporate authorities of any municipality of less than 500,000 inhabitants, by ordinance, may order the submission to the electors of a proposition to accumulate a surplus from the tax levy for general corporate purposes for a specified building project to be undertaken by the municipality when such accumulation becomes sufficient therefor. Such proposition shall be certified by the clerk to the proper election authority who shall submit the question at an election in accordance with the general election law. The proposition shall be in substantially the following form:

-----

Shall the municipality of (<u>name</u>) accumulate general corporate YES funds for the purpose of building ------(here state building purpose)?

-----

If a majority of the electors voting on the proposition vote in favor thereof, the municipality may use a portion of the funds levied for general corporate purposes, within the tax rate and to the extent allowed by Section 8-3-1, for the purpose of accumulating funds for such building project.

(Source: P.A. 81-1489.)

# **Collection and Payment**

(65 ILCS 5/8-3-2) (from Ch. 24, par. 8-3-2)

Sec. 8-3-2. The taxes levied under Section 8-3-1 shall be collected and enforced in the same manner and by the same officers as state and county taxes, and shall be paid over by the officers collecting the tax to the municipal treasurer, or, in the case of a tax levied for library purposes in municipalities having not to exceed 50,000 inhabitants, to the board of directors of the library.

(Source: Laws 1967, p. 2674.)

## Time for Paying Over; Library Taxes

(65 ILCS 5/8-3-3) (from Ch. 24, par. 8-3-3)

Sec. 8-3-3. The officer collecting the taxes levied under Section 8-3-1 shall settle with and pay over to the municipal treasurer, or, in the case of a tax levied for library purposes in municipalities having not to exceed 50,000 inhabitants, to the board of trustees of the library, as often as once in 2 weeks from the time he commences the collection thereof, all taxes he has then collected, till the whole tax collected is paid over. The expenditures of taxes levied for library purposes, whether expended by the municipal treasurer or by the board of library trustees shall be made pursuant to the direction of the board of library trustees.

(Source: P.A. 84-770.)

#### Tax Levied and Set Apart for Particular Purpose

(65 ILCS 5/8-3-4) (from Ch. 24, par. 8-3-4)

Sec. 8-3-4. Whenever a municipality is required to levy a tax for the payment of a particular debt, appropriation, or liability of the municipality, the tax for that purpose shall

be included in the total amount levied by the corporate authorities, and certified to the county clerk as provided in Section 8-3-1. However, if a municipality has funds arising from any source whatsoever, including allocations received or to be received under the Motor Fuel Tax Law, as heretofore and hereafter amended which may lawfully be used for the retirement of a particular debt, appropriation or liability of the municipality, or the payment of the next maturing installment thereof, then if the municipality by resolution directs the application of such funds to the payment of the particular debt, appropriation or liability or next maturing installment thereof, it shall certify such resolution to the county clerk as provided in Section 8-3-1. The county clerk shall abate the levy for the payment of the particular debt, appropriation or liability or the next maturing installment thereof to the extent of the funds so certified as available for such payment. The corporate authorities shall determine, in the ordinance making that levy, what proportion of that total amount shall be applied to the payment of the particular debt, appropriation or liability. The municipal treasurer shall set apart that proportion of the tax, collected and paid to him, for the payment of the particular debt, appropriation or liability, and shall not disburse that proportion of the tax for any other purpose until the debt, appropriation or liability has been discharged.

(Source: Laws 1961, p. 576.)

# Uniformity

(65 ILCS 5/8-3-5) (from Ch. 24, par. 8-3-5)

Sec. 8-3-5. All taxes levied by a municipality, except special assessments for local improvements, shall be uniform upon all taxable property and persons within the limits of the municipality, and no property shall be exempt therefrom other than such property as may be exempt from taxation under the constitution and general laws of the State. (Source: Laws 1961, p. 576.)

## Municipalities under Special Acts; Manner of Levy and Collection

(65 ILCS 5/8-3-6) (from Ch. 24, par. 8-3-6)

Sec. 8-3-6. Every municipality incorporated under a special act shall levy and collect its taxes in the manner provided for in this Division 3 and in the manner provided for in the General Revenue Law of this state, even though its special act contains inconsistent provisions.

(Source: Laws 1961, p. 576.)

#### Tax Rate; Limitation under Special Acts

(65 ILCS 5/8-3-7) (from Ch. 24, par. 8-3-7)

Sec. 8-3-7. Every municipality incorporated under a special act has the power to levy and collect annually its taxes for general purposes, exclusive of the amounts levied

- (1) for the payment of bonded indebtedness, or interest thereon,
- (2) for school purposes,
- (3) under acts which provide that all taxes levied thereunder shall be in addition to taxes authorized to be levied for general purposes, and
- (4) for the purpose of providing general assistance for persons in need thereof as provided in "The Illinois Public Aid Code", approved April 11, 1967, as now or hereafter amended,

at whichever of the following rates is higher:

- (1) the rate specified in or allowed under its special act, or
- (2) a rate which will not exceed 1% of the aggregate valuation of all property within the municipality, subject to taxation therein, as the property was equalized or assessed by the Department of Revenue for the current year.

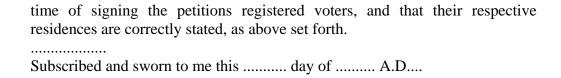
The foregoing limitations upon tax rates may be increased or decreased according to the referendum provisions of the General Revenue Law of Illinois. (Source: P.A. 81-1509.)

<u>Public Transportation for Elderly and Handicapped; Tax; Petition; Election</u> (65 ILCS 5/8-3-7a) (from Ch. 24, par. 8-3-7a) Sec. 8-3-7a.

(a) Whenever a petition containing the signatures of at least 1,000 or 10% of the registered voters, whichever is less, residing in a municipality of 500,000 or fewer inhabitants is presented to the corporate authorities of the municipality requesting the submission of a proposition to levy a tax at a rate not exceeding .075% upon the value, as equalized or assessed by the Department of Revenue, of all property within the municipality subject to taxation, for the purpose of financing a public transportation system for elderly and handicapped persons, the corporate authorities of such municipality shall adopt an ordinance or resolution directing the proper election officials to place the proposition on the ballot at the next election at which such proposition may be voted upon. The petition shall be filed with the corporate authorities at least 90 days prior to the next election at which such proposition may be voted upon. The petition may specify whether the transportation system financed by a tax levy under this Section is to serve only the municipality levying such tax or specified regions outside the corporate boundaries of such municipality in addition thereto. The petition shall be in substantially the following form:

We, the undersigned registered voters residing in .......(specify the municipality), in the County of .....(specify the County) and State of Illinois, do hereby petition that the corporate authorities of .......(specify the municipality) be required to place on the ballot the proposition requiring the municipality to levy an annual tax at the rate of .....(specify a rate not exceeding .075%) on all taxable property in ......(specify the municipality) for the purpose of financing a public transportation system for elderly and handicapped persons within .......(specify the municipality and any regions outside the corporate boundaries to be served by the transportation system).

Name	Address
State of Illinois	3)
	)ss
County of	.)
I, do	hereby certify that I am a registered voter, that I reside at
No stree	t, in the of County of and State of Illinois, and
that signatures	in this sheet were signed in my presence, and are genuine, and
that to the best	of my knowledge and belief the persons so signing were at the



The proposition shall be in substantially the following form:

Shall a tax of ...... % (specify a rate not exceeding .075%) be levied annually on all taxable property in ......(specify the municipality) to pay YES the cost of operating and maintaining a public transportation system for elderly and handicapped persons within.......(specify the municipality and any regions outside the corporate boundaries to be served by the transportation system)?

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If the majority of the voters of the municipality voting therein vote in favor of the proposition, the corporate authorities of the municipality shall levy such annual tax at the rate specified in the proposition. If the majority of the vote is against such proposition, such tax may not be levied.

- (b) Municipalities under this Section may contract with any not-for-profit corporation, subject to the General Not for Profit Corporation Act and incorporated primarily for the purpose of providing transportation to elderly and handicapped persons, for such corporation to provide transportation-related services for the purposes of this Section. Municipalities should utilize where possible existing facilities and systems already operating for the purposes outlined in this Section.
- (c) Taxes authorized under this Section may be used only for the purpose of financing a transportation system for elderly and handicapped persons as authorized in this Section.
- (d) For purposes of this Section, "handicapped person" means any individual who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary disability, is unable without special public transportation facilities or special planning or design to utilize ordinary public transportation facilities and services as effectively as persons who are not so affected.

"Public transportation for elderly and handicapped" means a transportation system for persons who have mental or physical difficulty in accessing or using the conventional public mass transportation system, or for any other reason.

(Source: P.A. 83-656.)

# Property Destroyed by Fire; Rebate of Taxes

(65 ILCS 5/8-3-8) (from Ch. 24, par. 8-3-8)

Sec. 8-3-8. Whenever any property listed or assessed for municipal taxation is destroyed by fire, in whole or in part, before the levy thereon of municipal taxes, or before the

municipal taxes levied thereon have been collected, the mayor or president may rebate or remit as much of the municipal taxes levied upon that property, as in his opinion should be rebated or remitted because the property has been, in whole or in part, destroyed by fire. (Source: Laws 1961, p. 576.)

# Property Destroyed by Fire; Reduction of Tax or Special Assessment

(65 ILCS 5/8-3-9) (from Ch. 24, par. 8-3-9)

Sec. 8-3-9. Whenever

- (1) a large portion of the taxable property of a municipality is destroyed by fire so as to seriously impair or affect the ability of the owners thereof to pay taxes or special assessments thereon, and
- (2) an appropriation ordinance has been passed, or special improvements ordered, before the fire, and
- (3) the taxes or special assessments have not been levied or collected, the corporate authorities of that municipality may
  - (1) alter or repeal that appropriation ordinance, or any part thereof,
  - (2) order the discontinuance of the special improvements, or any of them,
  - (3) reduce the amount of taxes or special assessments ordered to be levied or collected for any general or special purpose, or
  - (4) pass a new appropriation ordinance. This new appropriation ordinance shall have the same force and effect as if it had been passed within the time elsewhere prescribed by law.

(Source: Laws 1961, p. 576.)

# Surplus Fund or Tax; Uniformity of Distribution

(65 ILCS 5/8-3-10) (from Ch. 24, par. 8-3-10)

Sec. 8-3-10. No municipality shall receive from the county treasury of any county in which the municipality is situated in whole or in part, any greater proportion of the surplus of all taxes which may be collected for county purposes, than any other municipality within the county.

(Source: Laws 1961, p. 576.)

#### Amount of Drawback

(65 ILCS 5/8-3-11) (from Ch. 24, par. 8-3-11)

Sec. 8-3-11. No municipality shall receive from the county treasury any greater drawback of its proportion of the taxes paid into the county treasury of the county, in which it is situated in whole or in part, by reason of any appropriation by the county board, for the purpose of making and repairing roads and highways, or building and repairing bridges, situated in the county but outside the corporate limits of the municipality than is allowed by law to all other municipalities situated in whole or in part in that county.

(Source: Laws 1961, p. 576.)

# Schools; Annexed Territory in Certain Cities under Special Charter; Taxation (65 ILCS 5/8-3-12) (from Ch. 24, par. 8-3-12)

Sec. 8-3-12. In any city having a population of less than 20,000 which is operating under a special act and whose public schools within its corporate limits are governed by virtue of

this special act, upon a petition signed by a majority of the electors in any territory which has been heretofore or may be hereafter annexed to the city for general corporate purposes, the annexed territory shall be included in and subject to the control and government of the city for school purposes as fully as if the annexed territory had been originally within the corporate limits of the city. The territory, when so annexed, shall be thereby disconnected from any school district of which it was a part prior to the annexation.

The city may levy and collect taxes for school purposes in the annexed territory in the same manner and to the same extent as in the territory comprised within the original corporate limits of the city.

(Source: Laws 1961, p. 576.)

# Tourism, Conventions and Other Special Events Promotion Act of 1967 (65 ILCS 5/8-3-13) (from Ch. 24, par. 8-3-13)

Sec. 8-3-13. The corporate authorities of any municipality containing 500,000 or more inhabitants may impose a tax prior to July 1, 1969, upon all persons engaged in the municipality in the business of renting, leasing or letting rooms in a hotel, as defined in the Hotel Operators' Occupation Tax Act, at a rate not to exceed 1% of the gross rental receipts from the renting, leasing or letting, excluding, however, from gross rental receipts, the proceeds of the renting, leasing or letting to permanent residents of that hotel and proceeds from the tax imposed under subsection (c) of Section 13 of the Metropolitan Pier and Exposition Authority Act.

The tax imposed by a municipality under this Section and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The certificate of registration that is issued by the Department to a lessor under the Hotel Operators' Occupation Tax Act shall permit the registrant to engage in a business that is taxable under any ordinance or resolution enacted under this Section without registering separately with the Department under the ordinance or resolution or under this Section. The Department shall have full power to administer and enforce this Section; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner provided in this Section; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of and compliance with this Section, the Department and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties and definitions of terms, and employ the same modes of procedure, as are prescribed in the Hotel Operators' Occupation Tax Act and the Uniform Penalty and Interest Act, as fully as if the provisions contained in those Acts were set forth herein.

Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the warrant to be drawn for the amount specified, and to the person named, in the notification from the Department. The refund shall be paid by the State Treasurer out of the Illinois tourism tax fund.

Persons subject to any tax imposed under authority granted by this Section may reimburse themselves for their tax liability for that tax by separately stating the tax as an additional

charge, which charge may be stated in combination, in a single amount, with State tax imposed under the Hotel Operators' Occupation Tax Act.

The Department shall forthwith pay over to the State Treasurer, ex-officio, as trustee, all taxes and penalties collected hereunder. On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to named municipalities from which lessors have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each municipality shall be the amount (not including credit memoranda) collected hereunder during the second preceding calendar month by the Department, and not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of the municipality, less 4% of the balance, which sum shall be retained by the State Treasurer to cover the costs incurred by the Department in administering and enforcing the provisions of this Section, as provided herein. The Department, at the time of each monthly disbursement to the municipalities, shall prepare and certify to the Comptroller the amount so retained by the State Treasurer, which shall be paid into the General Revenue Fund of the State Treasury.

Within 10 days after receipt by the Comptroller of the disbursement certification to the municipalities and the General Revenue Fund provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the warrants to be drawn for the respective amounts in accordance with the directions contained in the certification.

Nothing in this Section shall be construed to authorize a municipality to impose a tax upon the privilege of engaging in any business that, under the Constitution of the United States, may not be made the subject of taxation by this State.

An ordinance or resolution imposing a tax hereunder or effecting a change in the rate thereof shall be effective on the first day of the calendar month next following the expiration of the publication period provided in Section 1-2-4 in respect to municipalities governed by that Section.

The corporate authorities of any municipality that levies a tax authorized by this Section shall transmit to the Department of Revenue on or not later than 5 days after the effective date of the ordinance or resolution a certified copy of the ordinance or resolution imposing the tax; whereupon, the Department of Revenue shall proceed to administer and enforce this Section on behalf of the municipality as of the effective date of the ordinance or resolution. Upon a change in rate of a tax levied hereunder, or upon the discontinuance of the tax, the corporate authorities of the municipality shall, on or not later than 5 days after the effective date of the ordinance or resolution discontinuing the tax or effecting a change in rate, transmit to the Department of Revenue a certified copy of the ordinance or resolution effecting the change or discontinuance. The amounts disbursed to any municipality under this Section shall be expended by the municipality solely to promote tourism, conventions and other special events within that municipality or otherwise to attract nonresidents to visit the municipality.

Any municipality receiving and disbursing money under this Section shall report on or before the first Monday in January of each year to the Advisory Committee of the Illinois Tourism Promotion Fund, created by Section 12 of the Illinois Promotion Act. The reports shall specify the purposes for which the disbursements were made and shall contain detailed amounts of all receipts and disbursements under this Section.

This Section may be cited as the Tourism, Conventions and Other Special Events Promotion Act of 1967.

(Source: P.A. 87-205; 87-733; 87-895.)

# Hotel Rooms; Tax on Gross Rental Receipts

(65 ILCS 5/8-3-14) (from Ch. 24, par. 8-3-14)

Sec. 8-3-14. The corporate authorities of any municipality may impose a tax upon all persons engaged in such municipality in the business of renting, leasing or letting rooms in a hotel, as defined in "The Hotel Operators' Occupation Tax Act," at a rate not to exceed 5% of the gross rental receipts from such renting, leasing or letting, excluding, however, from gross rental receipts, the proceeds of such renting, leasing or letting to permanent residents of that hotel and proceeds from the tax imposed under subsection (c) of Section 13 of the Metropolitan Pier and Exposition Authority Act, and may provide for the administration and enforcement of the tax, and for the collection thereof from the persons subject to the tax, as the corporate authorities determine to be necessary or practicable for the effective administration of the tax.

Persons subject to any tax imposed pursuant to authority granted by this Section may reimburse themselves for their tax liability for such tax by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax imposed under "The Hotel Operators' Occupation Tax Act".

Nothing in this Section shall be construed to authorize a municipality to impose a tax upon the privilege of engaging in any business which under the constitution of the United States may not be made the subject of taxation by this State.

The amounts collected by any municipality pursuant to this Section shall be expended by the municipality solely to promote tourism and conventions within that municipality or otherwise to attract nonresident overnight visitors to the municipality.

No funds received pursuant to this Section shall be used to advertise for or otherwise promote new competition in the hotel business.

(Source: P.A. 87-733.)

## Tax Collection; Enforcement

(65 ILCS 5/8-3-15) (from Ch. 24, par. 8-3-15)

Sec. 8-3-15. The corporate authorities of each municipality shall have all powers necessary to enforce the collection of any tax imposed and collected by such municipality, whether such tax was imposed pursuant to its home rule powers or statutory authorization, including but not limited to subpoena power and the power to create and enforce liens. No such lien shall affect the rights of bona fide purchasers, mortgagees, judgment creditors or other lienholders who acquire their interests in such property prior to the time a notice of such lien is placed on record in the office of the recorder or the registrar of titles of the county in which the property is located. However, nothing in this Section shall permit a municipality to place a lien upon property not located or found within its corporate

boundaries. A municipality creating a lien may provide that the procedures for its notice and enforcement shall be the same as that provided in the Retailers' Occupation Tax Act, as now or hereafter amended, for State tax liens, and any recorder or registrar of titles with whom a notice of such lien is filed shall treat such lien as a State tax lien for recording purposes.

(Source: P.A. 86-680.)

# Tax for Emergency Services and Disaster Operations

(65 ILCS 5/8-3-16) (from Ch. 24, par. 8-3-16)

Sec. 8-3-16. The corporate authorities of any municipality may annually levy, for emergency services and disaster operations as defined in the Illinois Emergency Management Agency Act, a tax not to exceed 0.05% of the full fair cash value, as equalized or assessed by the Department of Revenue, of all of the taxable property in the municipality for the current year. However, the amount collectible under a levy shall in no event exceed 25¢ per capita. The annual tax shall be in addition to the amount authorized to be levied for general corporate purposes.

(Source: P.A. 87-168.)

# Tax on College Tuition or Fees

(65 ILCS 5/8-3-17) (from Ch. 24, par. 8-3-17)

Sec. 8-3-17. The corporate authorities of a municipality may not impose a tax on any tuition or fees received by a public or private post-secondary educational institution or on any student with respect to his or her being enrolled in such an institution. This Section is a denial and limitation under subsection (g) of Section 6 of Article VII of the Illinois Constitution of the power of a home rule municipality to impose a tax in violation of this Section.

(Source: P.A. 86-1476.)

# <u>Abatement of Taxes for Taxpayers Making Donations to Qualified Programs; Definition</u> (65 ILCS 5/8-3-18)

Sec. 8-3-18. A municipality, upon a majority vote of its governing authority, may abate taxes levied for corporate purposes under Section 8-3-1 in an amount not to exceed 50% of the donation by a taxpayer who donates not less than \$10,000 to a qualified program. The abatement shall not exceed the tax extension on the taxpayer's real property for the levy year in which the donation is made.

For purposes of this Section, "qualified program" means a facility or a program in an area designated as a target area by the governing authority of the municipality for the creation or expansion of job training and counseling programs, youth day care centers, congregate housing programs for senior adults, youth recreation programs, alcohol and drug abuse prevention, mental health counseling programs, domestic violence shelters, and other programs, facilities or services approved by the governing authority as qualified programs in a target area.

(Source: P.A. 88-389.)

## Home Rule Real Estate Transfer Taxes

(65 ILCS 5/8-3-19)

Sec. 8-3-19. Home rule real estate transfer taxes.

- (a) After the effective date of this amendatory Act of the 93rd General Assembly and subject to this Section, a home rule municipality may impose or increase a tax or other fee on the privilege of transferring title to real estate, on the privilege of transferring a beneficial interest in real property, and on the privilege of transferring a controlling interest in a real estate entity, as the terms "beneficial interest", "controlling interest", and "real estate entity" are defined in Article 31 of the Property Tax Code. Such a tax or other fee shall hereafter be referred to as a real estate transfer tax.
- (b) Before adopting a resolution to submit the question of imposing or increasing a real estate transfer tax to referendum, the corporate authorities shall give public notice of and hold a public hearing on the intent to submit the question to referendum. This hearing may be part of a regularly scheduled meeting of the corporate authorities. The notice shall be published not more than 30 nor less than 10 days prior to the hearing in a newspaper of general circulation within the municipality. The notice shall be published in the following form:

Notice of Proposed (Increased) Real Estate Transfer Tax for (commonly known name of municipality).

A public hearing on a resolution to submit to referendum the question of a proposed (increased) real estate transfer tax for (legal name of the municipality) in an amount of (rate) to be paid by the buyer (seller) of the real estate transferred will be held on (date) at (time) at (location). The current rate of real estate transfer tax imposed by (name of municipality) is (rate).

Any person desiring to appear at the public hearing and present testimony to the taxing district may do so.

- (c) A notice that includes any information not specified and required by this Section is an invalid notice. All hearings shall be open to the public. At the public hearing, the corporate authorities of the municipality shall explain the reasons for the proposed or increased real estate transfer tax and shall permit persons desiring to be heard an opportunity to present testimony within reasonable time limits determined by the corporate authorities. A copy of the proposed ordinance shall be made available to the general public for inspection before the public hearing.
- (d) No home rule municipality shall impose a new real estate transfer tax after the effective date of this amendatory Act of 1996 without prior approval by referendum. No home rule municipality shall impose an increase of the rate of a current real estate transfer tax without prior approval by referendum. A home rule municipality may impose a new real estate transfer tax or may increase an existing real estate transfer tax with prior referendum approval. The referendum shall be conducted as provided in subsection (e). An existing ordinance or resolution imposing a real estate transfer tax may be amended without approval by referendum if the amendment does not increase the rate of the tax or add transactions on which the tax is imposed.

The home rule municipality shall, by resolution, provide for submission of the proposition to the voters. The home rule municipality shall certify the resolution and the proposition to the proper election officials in accordance with the general election law. If the proposition is to impose a new real estate transfer tax, it shall be in

substantially the following form.	
Shall (name of municipality) impose a	
real estate transfer tax at a rate of (rate)	YES
. 1 . 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	

substantially the following form:

to be paid by the buyer (seller) of the -----real estate transferred, with the revenue of the proposed transfer tax to be used NO for (purpose)?

\_\_\_\_\_

If the proposition is to increase an existing real estate transfer tax, it shall be in the following form:

- (e) If a majority of the electors voting on the proposition vote in favor of it, the municipality may impose or increase the municipal real estate transfer tax or fee.
- (f) Nothing in this amendatory Act of 1996 shall limit the purposes for which real estate transfer tax revenues may be collected or expended.
- (g) A home rule municipality may not impose real estate transfer taxes other than as authorized by this Section. This Section is a denial and limitation of home rule powers and functions under subsection (g) of Section 6 of Article VII of the Illinois Constitution.
- (h) Notwithstanding subsection (g) of this Section, any real estate transfer taxes adopted by a municipality at any time prior to January 17, 1997 (the effective date of Public Act 89-701) and any amendments to any existing real estate transfer tax ordinance adopted after that date, in accordance with the law in effect at the time of the adoption of the amendments, are not preempted by this amendatory Act of the 93rd General Assembly. (Source: P.A. 93-657, eff. 6-1-04.)

#### MUNICIPAL TREASURER'S REFERENCE MANUAL

#### **PENSIONS**

(40 ILCS 5/) Illinois Pension Code. (40 ILCS 5/Art. 3 heading)

#### VII. PENSIONS

#### ARTICLE 3. POLICE PENSION FUND - MUNICIPALITIES 500,000 AND UNDER

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## Creation of Fund

(40 ILCS 5/3-101) (from Ch. 108 1/2, par. 3-101)

Sec. 3-101. Creation of fund. In each municipality, as defined in Section 3-103, the city council or the board of trustees, as the case may be, shall establish and administer a police pension fund, as prescribed in this Article, for the benefit of its police officers and of their surviving spouses, children, and certain other dependents.

(Source: P.A. 83-1440.)

## Terms Defined

(40 ILCS 5/3-102) (from Ch. 108 1/2, par. 3-102)

Sec. 3-102. Terms defined. The terms used in this Article have the meanings ascribed to them in Sections 3-103 through 3-108.3, except when the context otherwise requires. (Source: P.A. 90-507, eff. 8-22-97.)

## Municipality

(40 ILCS 5/3-103) (from Ch. 108 1/2, par. 3-103)

Sec. 3-103. Municipality. "Municipality": (1) Any city, village or incorporated town of 5,000 or more but less than 500,000 inhabitants, as determined from the United States Government statistics or a census taken at any time by the city, village or incorporated town and (2) any city, village or incorporated town of less than 5,000 inhabitants which, by referendum held under Section 3-145 adopts this Article.

(Source: P.A. 83-1440.)

#### **Board**

(40 ILCS 5/3-105) (from Ch. 108 1/2, par. 3-105)

Sec. 3-105. Board. "Board": The board of trustees of the police pension fund of a municipality as established in Section 3-128.

(Source: P.A. 83-1440.)

## **Deferred Pensioner**

(40 ILCS 5/3-105.1) (from Ch. 108 1/2, par. 3-105.1)

Sec. 3-105.1. Deferred Pensioner. "Deferred Pensioner": a police officer who has retired having accumulated enough creditable service to qualify for a pension, but who has not attained the required age.

(Source: P.A. 84-1010.)

## Self-Managed Plan

(40 ILCS 5/3-105.2)

Sec. 3-105.2. Self-Managed Plan. "Self-managed plan": The defined contribution retirement program established for eligible employees under Section 3-109.3. The self-managed plan includes disability benefits as provided in Sections 3-114.1, 3-114.2, 3-114.3, and 3-114.6 (but disregarding disability retirement annuities under Section 3-116.1). The self-managed plan does not include any retirement annuities, death benefits, or survivors insurance benefits payable directly from the fund under Section 3-111, 3-111.1, 3-112, 3-114.1, 3-114.2, 3-114.3, 3-114.6, or 3-116.1 or any refunds determined under Section 3-124.

(Source: P.A. 91-939, eff. 2-1-01.)

## Police Officer, Officer.

(40 ILCS 5/3-106) (from Ch. 108 1/2, par. 3-106)

Sec. 3-106. Police officer, officer. "Police officer" or "officer": Any person who (1) is appointed to the police force of a police department and sworn and commissioned to perform police duties; and (2) within 3 months after receiving his or her first appointment and, if reappointed, within 3 months thereafter, or as otherwise provided in Section 3-109, makes written application to the board to come under the provisions of this Article.

Police officers serving initial probationary periods, if otherwise eligible, shall be police officers within the meaning of this Section.

(Source: P.A. 89-52, eff. 6-30-95.)

#### Gender

(40 ILCS 5/3-107) (from Ch. 108 1/2, par. 3-107)

Sec. 3-107. Gender. "Gender": The masculine gender whenever used in this Article includes the female gender unless manifestly inconsistent with the context.

(Source: P.A. 83-1440.)

## Child or Children

(40 ILCS 5/3-108) (from Ch. 108 1/2, par. 3-108)

Sec. 3-108. Child or children. "Child" or "children": "Child" or "children" includes a police officer's natural and legally adopted children. Adopted children shall be eligible for benefits only if the judicial proceedings for adoption were commenced at least one year prior to the death or disability of the police officer and in any event prior to his or her attainment of age 50.

(Source: P.A. 83-1440.)

## Dependent Parent

40 ILCS 5/3-108.1) (from Ch. 108 1/2, par. 3-108.1)

Sec. 3-108.1. Dependent parent. "Dependent parent": A parent who furnishes satisfactory proof that the deceased police officer at the time of his or her death was the sole support of the parent or that the parent was the dependent of the deceased police officer for federal income tax purposes.

(Source: P.A. 83-1440.)

## **Participant**

(40 ILCS 5/3-108.2)

Sec. 3-108.2. Participant. "Participant": A police officer or deferred pensioner of a pension fund, or a beneficiary of the pension fund.

(Source: P.A. 90-507, eff. 8-22-97.)

## Beneficiary

(40 ILCS 5/3-108.3)

Sec. 3-108.3. Beneficiary. "Beneficiary": A person receiving benefits from a pension fund, including, but not limited to, retired pensioners, disabled pensioners, their surviving spouses, minor children, disabled children, and dependent parents.

(Source: P.A. 90-507, eff. 8-22-97.)

## Persons Excluded

(40 ILCS 5/3-109) (from Ch. 108 1/2, par. 3-109)

Sec. 3-109. Persons excluded.

- (a) The following persons shall not be eligible to participate in a fund created under this Article:
  - (1) part-time police officers, special police officers, night watchmen, temporary employees, traffic guards or so-called auxiliary police officers specially appointed to aid or direct traffic at or near schools or public functions, or to aid in civil defense, municipal parking lot attendants, clerks or other civilian employees of a police department who perform clerical duties exclusively;

- any police officer who fails to pay the contributions required under Section 3-125.1, computed (i) for funds established prior to August 5, 1963, from the date the municipality established the fund or the date of a police officer's first appointment (including an appointment on probation), whichever is later, or (ii) for funds established after August 5, 1963, from the date, as determined from the statistics or census provided in Section 3-103, the municipality became subject to this Article by attaining the minimum population or by referendum, or the date of a police officer's first appointment (including an appointment on probation), whichever is later, and continuing during his or her entire service as a police officer; and
- (3) any person who has elected under Section 3-109.1 to participate in the Illinois Municipal Retirement Fund rather than in a fund established under this Article, without regard to whether the person continues to be employed as chief of police or is employed in some other rank or capacity within the police department, unless the person has lawfully rescinded that election.
- (b) A police officer who is reappointed shall, before being declared eligible to participate in the pension fund, repay to the fund as required by Section 3-124 any refund received thereunder.
- (c) Any person otherwise qualified to participate who was excluded from participation by reason of the age restriction removed by Public Act 79-1165 may elect to participate by making a written application to the Board before January 1, 1990. Persons so electing shall begin participation on the first day of the month following the date of application. Such persons may also elect to establish creditable service for periods of employment as a police officer during which they did not participate by paying into the police pension fund, before January 1, 1990, the amount that the person would have contributed had deductions from salary been made for such purpose at the time such service was rendered, together with interest thereon at 6% per annum from the time such service was rendered until the date the payment is made.
- (d) A person otherwise qualified to participate who was excluded from participation by reason of the fitness requirement removed by this amendatory Act of 1995 may elect to participate by making a written application to the Board before July 1, 1996. Persons so electing shall begin participation on the first day of the month following the month in which the application is received by the Board. These persons may also elect to establish creditable service for periods of employment as a police officer during which they did not participate by paying into the police pension fund, before January 1, 1997, the amount that the person would have contributed had deductions from salary been made for this purpose at the time the service was rendered, together with interest thereon at 6% per annum, compounded annually, from the time the service was rendered until the date of payment.

(Source: P.A. 89-52, eff. 6-30-95; 90-460, eff. 8-17-97.)

## Chief of Police

(40 ILCS 5/3-109.1) (from Ch. 108 1/2, par. 3-109.1) Sec. 3-109.1. Chief of police.

- (a) Beginning January 1, 1990, any person who is employed as the chief of police of a "participating municipality" as defined in Section 7-106 of this Code, may elect to participate in the Illinois Municipal Retirement Fund rather than in a fund created under this Article 3. Except as provided in subsection (b), this election shall be irrevocable, and shall be filed in writing with the Board of the Illinois Municipal Retirement Fund.
- (b) Until January 1, 1999, a chief of police who has elected under this Section to participate in IMRF rather than a fund created under this Article may elect to rescind that election and transfer his or her participation to the police pension fund established under this Article by the employing municipality. The chief must notify the boards of trustees of both funds in writing of his or her decision to rescind the election and transfer participation. A chief of police who transfers participation under this subsection (b) shall not be deemed ineligible to participate in the police pension fund by reason of having failed to apply within the 3-month period specified in Section 3-106.

(Source: P.A. 90-460, eff. 8-17-97.)

## Retirement Program Elections

(40 ILCS 5/3-109.2)

Sec. 3-109.2. Retirement Program Elections.

(a) For the purposes of this Section and Section 3-109.3:

"Eligible employee" means a police officer who is hired on or within one year after the effective date of the self-managed plan established under Section 3-109.3.

"Ineligible employee" means a police officer who is hired before or more than one year after that effective date.

- (b) Each eligible employee may elect to participate in the self-managed plan with respect to all periods of covered employment occurring on and after the effective date of the eligible employee's election. The election must be made in writing, in the manner prescribed by the fund, and within 6 months after the later of
  - (i) the date upon which the self-managed plan takes effect or
  - (ii) the date of hire.

The election, once made, is irrevocable. If an employee terminates employment after making the election, then upon his or her subsequent re-employment under this Article with the same municipality, the original election shall automatically be reinstated.

A police officer who does not elect to participate in the self-managed plan within the permitted time shall participate in the defined benefit plan otherwise provided under this Article.

The employer shall not remit contributions to the fund on behalf of an eligible employee until the earlier of the expiration of the employee's 6-month election period or the date on which the employee submits a properly completed election to the employer or to the fund.

(c) Each eligible employee shall be provided with written information prepared or prescribed by the fund, describing the employee's retirement program choices. The eligible employee shall be offered an opportunity to receive counseling from the

fund prior to making his or her election. This counseling may consist of videotaped materials, group presentations, individual consultation with an employee or authorized representative of the fund in person or by telephone or other electronic means, or any combination of these methods.

(Source: P.A. 91-939, eff. 2-1-01.)

## Self-Managed Plan

(40 ILCS 5/3-109.3)

Sec. 3-109.3. Self-Managed Plan.

- (a) Purpose. The General Assembly finds that it is important for municipalities to be able to attract and retain the most qualified police officers and that in order to attract and retain these police officers, municipalities should have the flexibility to provide a defined contribution plan as an alternative for eligible employees who elect not to participate in a defined benefit retirement program provided under this Article. Accordingly, a self-managed plan shall be provided, which shall offer participating employees the opportunity to accumulate assets for retirement through a combination of employee and employer contributions that may be invested in mutual funds, collective investment funds, or other investment products and used to purchase annuity contracts, either fixed or variable, or a combination thereof. The plan must be qualified under the Internal Revenue Code of 1986.
- (b) Study by Commission; Adoption of plan. The Illinois Pension Laws Commission (or its successor, the Commission on Government Forecasting and Accountability) shall study and evaluate the creation of a statewide self-managed plan for eligible employees under this Article. The Commission shall report its findings and recommendations to the General Assembly no later than January 1, 2002. In accordance with the recommendations of the Commission and any action taken by the General Assembly in response to those recommendations, a statewide self-managed plan shall be adopted for eligible employees under this Article. The self-managed plan shall take effect as specified in the plan, but in no event earlier than July 1, 2002 or the date of its approval by the U.S. Internal Revenue Service, whichever occurs later.
  - The self-managed plan shall include a plan document and shall provide for the adoption of such rules and procedures as are necessary or desirable for the administration of the self-managed plan. Consistent with fiduciary duty to the participants and beneficiaries of the self-managed plan, it may provide for delegation of suitable aspects of plan administration to companies authorized to do business in this State.
- (c) Selection of service providers and funding vehicles. The principal administrator of the self-managed plan shall solicit proposals to provide administrative services and funding vehicles for the self-managed plan from insurance and annuity companies and mutual fund companies, banks, trust companies, or other financial institutions authorized to do business in this State. In reviewing the proposals received and approving and contracting with no fewer than 2 and no more than 7 companies, the principal administrator shall consider, among other things, the following criteria:
  - (1) the nature and extent of the benefits that would be provided to the participants;

- (2) the reasonableness of the benefits in relation to the premium charged;
- (3) the suitability of the benefits to the needs and interests of the participating employees and the employer;
- (4) the ability of the company to provide benefits under the contract and the financial stability of the company; and
- (5) the efficacy of the contract in the recruitment and retention of employees.

The principal administrator shall periodically review each approved company. A company may continue to provide administrative services and funding vehicles for the self-managed plan only so long as it continues to be an approved company under contract with the principal administrator.

- (d) Employee Direction. Employees who are participating in the program must be allowed to direct the transfer of their account balances among the various investment options offered, subject to applicable contractual provisions. The participant shall not be deemed a fiduciary by reason of providing such investment direction. A person who is a fiduciary shall not be liable for any loss resulting from such investment direction and shall not be deemed to have breached any fiduciary duty by acting in accordance with that direction. The self-managed plan does not guarantee any of the investments in the employee's account balances.
- (e) Participation. An eligible employee must make a written election in accordance with the provisions of Section 3-109.2 and the procedures established under the self-managed plan. Participation in the self-managed plan by an eligible employee who elects to participate in the self-managed plan shall begin on the first day of the first pay period following the later of the date the employee's election is filed with the fund or the employer, but in no event sooner than the effective date of the self-managed plan.

A police officer who has elected to participate in the self-managed plan under this Section must continue participation while employed in an eligible position, and may not participate in any other retirement program administered by the municipality while employed as a police officer by that municipality. Participation in the self-managed plan under this Section shall constitute membership in an Article 3 pension fund.

- (i) No Duplication of Service Credit. Notwithstanding any other provision of this Article, a police officer may not purchase or receive service or service credit applicable to any other retirement program administered by a fund under this Article for any period during which the police officer was a participant in the self-managed plan established under this Section.
- (ii) Contributions. The self-managed plan shall be funded by contributions from participants in the self-managed plan and employer contributions as provided in this Section.

The contribution rate for a participant in the self-managed plan under this Section shall be a minimum of 10% of his or her salary. This required contribution shall be made as an "employer pick-up" under Section 414(h) of the Internal Revenue Code of 1986 or any successor Section thereof. An employee may make additional contributions to the self-managed plan in accordance with the terms of the plan.

The self-managed plan shall provide for employer contributions to be credited to each self-managed plan participant at a rate of 10% of the participating employee's salary, less the amount of the employer contribution used to provide disability benefits for the employee. The amounts so credited shall be paid into the participant's self-managed plan accounts in the manner prescribed by the plan.

An amount of employer contribution, not exceeding 1.5% of the participating employee's salary, shall be used for the purpose of providing disability benefits to the participating employee. Prior to the beginning of each plan year under the self-managed plan, the principal administrator shall determine, as a percentage of salary, the amount of employer contributions to be allocated during that plan year for providing disability benefits for employees in the self-managed plan.

- (iii) Vesting; Withdrawal; Return to Service. A participant in the self-managed plan becomes fully vested in the employer contributions credited to his or her account in the self-managed plan on the earliest to occur of the following:
- (1) completion of 6 years of service with the municipality; or
- (2) the death of the participating employee while employed by the municipality, if the participant has completed at least 1.5 years of service.

A participant in the self-managed plan who receives a distribution of his or her vested amounts from the self-managed plan upon or after termination of employment shall forfeit all service credit and accrued rights in the fund of his or her employer; if subsequently re-employed, the participant shall be considered a new employee. If a former participant again becomes a participating employee and continues as such for at least 2 years, all such rights, service credit, and previous status as a participant shall be restored upon repayment of the amount of the distribution without interest.

(f) Benefit amounts. If a participating employee who is fully vested in employer contributions terminates employment, the participating employee shall be entitled to a benefit which is based on the account values attributable to both employer and employee contributions and any investment return thereon. If a participating employee who is not fully vested in employer contributions terminates employment, the employee shall be entitled to a benefit based on the account values attributable to the employee's contributions and any investment return thereon, plus the following percentage of employer contributions and any investment return thereon: 20% after the second year; 40% after the third year; 60% after the fourth year; 80% after the fifth year; and 100% after the sixth year. The remainder of employer contributions and investment return thereon shall be forfeited. Any employer contributions that are forfeited shall be held in escrow by the company investing those contributions and shall be used as directed by the municipality for future allocations of employer contributions or for the restoration of amounts previously forfeited by former participants who again become participating employees.

(Source: P.A. 93-632, eff. 2-1-04; 93-1067, eff. 1-15-05.)

## Creditable Service

(40 ILCS 5/3-110) (from Ch. 108 1/2, par. 3-110) Sec. 3-110. Creditable service.

- (a) "Creditable service" is the time served by a police officer as a member of a regularly constituted police force of a municipality. In computing creditable service furloughs without pay exceeding 30 days shall not be counted, but all leaves of absence for illness or accident, regardless of length, and all periods of disability retirement for which a police officer has received no disability pension payments under this Article shall be counted.
- (a-5) Up to 3 years of time during which the police officer receives a disability pension under Section 3-114.1, 3-114.2, 3-114.3, or 3-114.6 shall be counted as creditable service, provided that
  - (i) the police officer returns to active service after the disability for a period at least equal to the period for which credit is to be established and
  - (ii) the police officer makes contributions to the fund based on the rates specified in Section 3-125.1 and the salary upon which the disability pension is based. These contributions may be paid at any time prior to the commencement of a retirement pension. The police officer may, but need not, elect to have the contributions deducted from the disability pension or to pay them in installments on a schedule approved by the board. If not deducted from the disability pension, the contributions shall include interest at the rate of 6% per year, compounded annually, from the date for which service credit is being established to the date of payment. If contributions are paid under this subsection (a-5) in excess of those needed to establish the credit, the excess shall be refunded.

This subsection (a-5) applies to persons receiving a disability pension under Section 3-114.1, 3-114.2, 3-114.3, or 3-114.6 on the effective date of this amendatory Act of the 91st General Assembly, as well as persons who begin to receive such a disability pension after that date.

- (b) Creditable service includes all periods of service in the military, naval or air forces of the United States entered upon while an active police officer of a municipality, provided that upon applying for a permanent pension, and in accordance with the rules of the board, the police officer pays into the fund the amount the officer would have contributed if he or she had been a regular contributor during such period, to the extent that the municipality which the police officer served has not made such contributions in the officer's behalf. The total amount of such creditable service shall not exceed 5 years, except that any police officer who on July 1, 1973 had more than 5 years of such creditable service shall receive the total amount thereof.
- (c) Creditable service also includes service rendered by a police officer while on leave of absence from a police department to serve as an executive of an organization whose membership consists of members of a police department, subject to the following conditions:
  - (i) the police officer is a participant of a fund established under this Article with at least 10 years of service as a police officer;

- (ii) the police officer received no credit for such service under any other retirement system, pension fund, or annuity and benefit fund included in this Code;
- (iii) pursuant to the rules of the board the police officer pays to the fund the amount he or she would have contributed had the officer been an active member of the police department; and
- (iv) the organization pays a contribution equal to the municipality's normal cost for that period of service.
- (d)(1) Creditable service also includes periods of service originally established in another police pension fund under this Article or in the Fund established under Article 7 of this Code for which
  - (i) the contributions have been transferred under Section 3-110.7 or Section 7-139.9 and
  - (ii) any additional contribution required under paragraph (2) of this subsection has been paid in full in accordance with the requirements of this subsection (d).
  - (2) If the board of the pension fund to which creditable service and related contributions are transferred under Section 3-110.7 or 7-139.9 determines that the amount transferred is less than the true cost to the pension fund of allowing that creditable service to be established, then in order to establish that creditable service the police officer must pay to the pension fund, within the payment period specified in paragraph (3) of this subsection, an additional contribution equal to the difference, as determined by the board in accordance with the rules and procedures adopted under paragraph (6) of this subsection.
  - (3) Except as provided in paragraph (4), the additional contribution must be paid to the board
  - (i) within 5 years from the date of the transfer of contributions under Section 3-110.7 or 7-139.9 and
  - (ii) before the police officer terminates service with the fund. The additional contribution may be paid in a lump sum or in accordance with a schedule of installment payments authorized by the board.
  - (4) If the police officer dies in service before payment in full has been made and before the expiration of the 5-year payment period, the surviving spouse of the officer may elect to pay the unpaid amount on the officer's behalf within 6 months after the date of death, in which case the creditable service shall be granted as though the deceased police officer had paid the remaining balance on the day before the date of death.
  - (5) If the additional contribution is not paid in full within the required time, the creditable service shall not be granted and the police officer (or the officer's surviving spouse or estate) shall be entitled to receive a refund of
  - (ii) any partial payment of the additional contribution that has been made by the police officer and
  - (iii) those portions of the amounts transferred under subdivision (a)(1) of Section 3-110.7 or subdivisions (a)(1) and (a)(3) of Section 7-139.9 that represent employee contributions paid by the police officer (but not the accumulated interest on those contributions) and interest paid by the police

officer to the prior pension fund in order to reinstate service terminated by acceptance of a refund.

At the time of paying a refund under this item (5), the pension fund shall also repay to the pension fund from which the contributions were transferred under Section 3-110.7 or 7-139.9 the amount originally transferred under subdivision (a)(2) of that Section, plus interest at the rate of 6% per year, compounded annually, from the date of the original transfer to the date of repayment. Amounts repaid to the Article 7 fund under this provision shall be credited to the appropriate municipality. Transferred credit that is not granted due to failure to pay the additional contribution within the required time is lost; it may not be transferred to another pension fund and may not be reinstated in the pension fund from which it was transferred.

(6) The Public Employee Pension Fund Division of the Department of Insurance shall establish by rule the manner of making the calculation required under paragraph (2) of this subsection, taking into account the appropriate actuarial assumptions; the police officer's service, age, and salary history; the level of funding of the pension fund to which the credits are being transferred; and any other factors that the Division determines to be relevant. The rules may require that all calculations made under paragraph (2) be reported to the Division by the board performing the calculation, together with documentation of the creditable service to be transferred, the amounts of contributions and interest to be transferred, the manner in which the calculation was performed, the numbers relied upon in making the calculation, the results of the calculation, and any other information the Division may deem useful.

(Source: P.A. 90-460, eff. 8-17-97; 91-887, eff. 7-6-00; 91-939, eff. 2-1-01.)

# <u>Transfer of Creditable Service to General Assembly Retirement System</u> (40 ILCS 5/3-110.2) (from Ch. 108 1/2, par. 3-110.2)

Sec. 3-110.2. Transfer of creditable service to General Assembly Retirement System.

- (a) An active member of the General Assembly Retirement System may apply to transfer his or her credits and creditable service accumulated in any police pension fund under this Article to the General Assembly Retirement System. Such transfer shall be made forthwith. Payment by the police pension fund to the General Assembly Retirement System shall be made at the same time and shall consist of:
  - (1) the amounts credited to the applicant, through employee contributions on the date of transfer; and
  - (2) municipality contributions equal to the accumulated employee contributions as determined under subparagraph (1) above.

Participation in the police pension fund shall terminate on the date of transfer.

(b) An active member of the General Assembly may reinstate service and creditable service terminated upon receipt of a refund, by payment to the fund of the amount of the refund together with interest thereon at the rate of 6% per year to the date of payment.

(Source: P.A. 83-1440.)

## Transfer to IMRF

(40 ILCS 5/3-110.3) (from Ch. 108 1/2, par. 3-110.3) Sec. 3-110.3. Transfer to IMRF.

- (a) Any person who has made an election under Section 3-109.1, and until July 1, 1993, any active member of the Illinois Municipal Retirement Fund who is a county clerk, may apply for transfer of his creditable service accumulated in any police pension fund under this Article to the Illinois Municipal Retirement Fund. The creditable service shall be transferred upon payment by the police pension fund to the Illinois Municipal Retirement Fund of an amount equal to:
  - (1) the amounts accumulated to the credit of the applicant on the books of the fund on the date of transfer; and
  - (2) employer contributions in an amount equal to the amount determined under subparagraph (1); and
  - (3) any interest paid by the applicant in order to reinstate service. Participation in this Fund shall terminate on the date of transfer.
- (b) Any person who has made an election under Section 3-109.1, and until July 1, 1993, any such county clerk, may reinstate service which was terminated by receipt of a refund, by payment to the police pension fund of the amount of the refund with interest thereon at the rate of 6% per year, compounded annually, from the date of refund to the date of payment.

(Source: P.A. 86-273; 87-1265.)

## Transfer of Creditable Service to Article 8, 9 or 13 Fund

(40 ILCS 5/3-110.4) (from Ch. 108 1/2, par. 3-110.4)

Sec. 3-110.4. Transfer of creditable service to Article 8, 9 or 13 fund.

- (a) Any city officer as defined in Section 8-243.2 of this Code, any county officer elected by vote of the people who is a participant in a pension fund established under Article 9 of this Code, any chief of the County Police Department or undersheriff of the County Sheriff's Department who has elected under subparagraph (j) of Section 9-128.1 to be included within the provisions of Section 9-128.1 of Article 9 of this Code, and any elected sanitary district commissioner who is a participant in a pension fund established under Article 13 of this Code, may apply to transfer his or her credits and creditable service accumulated in any police pension fund established under this Article to such Article 8, 9 or 13 fund. Such transfer shall be made forthwith. Payment by the police pension fund to the Article 8, 9 or 13 fund shall be made at the same time and shall consist of:
  - (1) the amounts credited to the applicant through employee contributions on the date of transfer; and
  - (2) municipality contributions equal to the accumulated employee contributions as determined under item (1) above.

Participation in the police pension fund shall terminate on the date of transfer.

(b) Any such elected city officer, county officer, chief of the County Police Department, undersheriff of the County Sheriff's Department, or sanitary district commissioner may reinstate credits and creditable service terminated upon receipt of a refund, by payment to the fund of the amount of the refund together with interest thereon at the rate of 6% per year, compounded annually from the date of refund to the date of payment.

(Source: P.A. 89-643, eff. 8-9-96.)

## Transfer to Article 14 System

(40 ILCS 5/3-110.5) (from Ch. 108 1/2, par. 3-110.5)

Sec. 3-110.5. Transfer to Article 14 system.

- (a) Until January 1, 1990, any active member of the State Employees' Retirement System who is a State policeman and until July 1, 1998, any active member of the State Employees' Retirement System who is a security employee of the Department of Corrections may apply for transfer of his or her creditable service accumulated in any police pension fund under this Article to the State Employees' Retirement System. Such creditable service shall be transferred only upon payment by such police pension fund to the State Employees' Retirement System of an amount equal to:
  - (1) the amounts accumulated to the credit of the applicant on the books of the fund on the date of transfer; and
  - (2) employer contributions in an amount equal to the amount determined under subparagraph (1); and
  - (3) any interest paid by the applicant in order to reinstate service. Participation in this Fund shall terminate on the date of transfer.
- (b) Until January 1, 1990, any such State policeman and until July 1, 1998, any such security employee of the Department of Corrections may reinstate service which was terminated by receipt of a refund, by payment to the police pension fund of the amount of the refund with interest thereon at the rate of 6% per year, compounded annually, from the date of refund to the date of payment.

(Source: P.A. 90-32, eff. 6-27-97.)

## Transfer to Article 14 System

(40 ILCS 5/3-110.6) (from Ch. 108 1/2, par. 3-110.6)

Sec. 3-110.6. Transfer to Article 14 System.

- (a) Any active member of the State Employees' Retirement System who is an investigator for the Office of the State's Attorneys Appellate Prosecutor or a controlled substance inspector may apply for transfer of his or her creditable service accumulated in any police pension fund under this Article to the State Employees' Retirement System in accordance with Section 14-110. The creditable service shall be transferred only upon payment by the police pension fund to the State Employees' Retirement System of an amount equal to:
  - (1) the amounts accumulated to the credit of the applicant on the books of the fund on the date of transfer; and
  - (2) employer contributions in an amount equal to the amount determined under subparagraph (1); and
  - (3) any interest paid by the applicant in order to reinstate service. Participation in the police pension fund shall terminate on the date of transfer.
- (b) Any such investigator or inspector may reinstate service which was terminated by receipt of a refund, by paying to the police pension fund the amount of the refund with interest thereon at the rate of 6% per year, compounded annually, from the date of refund to the date of payment.

(Source: P.A. 90-32, eff. 6-27-97.)

## Transfer between Article 3 Funds

(40 ILCS 5/3-110.7)

Sec. 3-110.7. Transfer between Article 3 funds.

- (a) An active member of a pension fund established under this Article may apply for transfer to that fund of his or her creditable service and related contributions accumulated in any other police pension fund established under this Article, except that a police officer may not transfer creditable service under this Section from a pension fund unless
  - (i) the police officer actively served in the police department under that fund for at least 2 years,
  - (ii) the police officer actively served in the police department under that fund for less than 2 years but was laid off or otherwise involuntarily terminated for a reason other than the fault of the officer, or
  - (iii) the police officer was not in service in the police department under that fund on or after the effective date of this Section. Upon receiving the application, that other pension fund shall transfer to the pension fund in which the applicant currently participates an amount equal to:
  - (1) the amounts actually contributed by or on behalf of the applicant to the fund as employee contributions (including any interest paid by the applicant in order to reinstate service), plus interest on those amounts at the rate of 6% per year, compounded annually, from the date of contribution to the date of transfer; plus
  - (2) an amount representing employer contributions, equal to the total amount determined under subdivision (1).

Participation in that other pension fund shall terminate on the date of transfer.

(b) An active member of a pension fund established under this Article may reinstate service in any other pension fund established under this Article that was terminated by receipt of a refund, by paying to that other pension fund the amount of the refund plus interest thereon at the rate of 6% per year, compounded annually, from the date of refund to the date of payment.

(Source: P.A. 90-460, eff. 8-17-97.)

## Pension

(40 ILCS 5/3-111) (from Ch. 108 1/2, par. 3-111)

Sec. 3-111. Pension.

(a) A police officer age 50 or more with 20 or more years of creditable service, who is not a participant in the self-managed plan under Section 3-109.3 and who is no longer in service as a police officer, shall receive a pension of 1/2 of the salary attached to the rank held by the officer on the police force for one year immediately prior to retirement or, beginning July 1, 1987 for persons terminating service on or after that date, the salary attached to the rank held on the last day of service or for one year prior to the last day, whichever is greater. The pension shall be increased by 2.5% of such salary for each additional year of service over 20 years of service through 30 years of service, to a maximum of 75% of such salary.

The changes made to this subsection (a) by this amendatory Act of the 91st General Assembly apply to all pensions that become payable under this subsection on or after January 1, 1999. All pensions payable under this subsection that began on or after January 1, 1999 and before the effective date of this amendatory Act shall be recalculated, and the amount of the increase accruing for that period shall be payable to the pensioner in a lump sum.

- (a-5) No pension in effect on or granted after June 30, 1973 shall be less than \$200 per month. Beginning July 1, 1987, the minimum retirement pension for a police officer having at least 20 years of creditable service shall be \$400 per month, without regard to whether or not retirement occurred prior to that date. If the minimum pension established in Section 3-113.1 is greater than the minimum provided in this subsection, the Section 3-113.1 minimum controls.
- (b) A police officer mandatorily retired from service due to age by operation of law, having at least 8 but less than 20 years of creditable service, shall receive a pension equal to 2 1/2% of the salary attached to the rank he or she held on the police force for one year immediately prior to retirement or, beginning July 1, 1987 for persons terminating service on or after that date, the salary attached to the rank held on the last day of service or for one year prior to the last day, whichever is greater, for each year of creditable service.

A police officer who retires or is separated from service having at least 8 years but less than 20 years of creditable service, who is not mandatorily retired due to age by operation of law, and who does not apply for a refund of contributions at his or her last separation from police service, shall receive a pension upon attaining age 60 equal to 2.5% of the salary attached to the rank held by the police officer on the police force for one year immediately prior to retirement or, beginning July 1, 1987 for persons terminating service on or after that date, the salary attached to the rank held on the last day of service or for one year prior to the last day, whichever is greater, for each year of creditable service.

(c) A police officer no longer in service who has at least one but less than 8 years of creditable service in a police pension fund but meets the requirements of this subsection (c) shall be eligible to receive a pension from that fund equal to 2.5% of the salary attached to the rank held on the last day of service under that fund or for one year prior to that last day, whichever is greater, for each year of creditable service in that fund. The pension shall begin no earlier than upon attainment of age 60 (or upon mandatory retirement from the fund by operation of law due to age, if that occurs before age 60) and in no event before the effective date of this amendatory Act of 1997.

In order to be eligible for a pension under this subsection (c), the police officer must have at least 8 years of creditable service in a second police pension fund under this Article and be receiving a pension under subsection (a) or (b) of this Section from that second fund. The police officer need not be in service on or after the effective date of this amendatory Act of 1997.

(Source: P.A. 90-460, eff. 8-17-97; 91-939, eff. 2-1-01.)

## Increase in Pension

(40 ILCS 5/3-111.1) (from Ch. 108 1/2, par. 3-111.1) Sec. 3-111.1. Increase in pension.

- (a) Except as provided in subsection (e), the monthly pension of a police officer who retires after July 1, 1971, and prior to January 1, 1986, shall be increased, upon either the first of the month following the first anniversary of the date of retirement if the officer is 60 years of age or over at retirement date, or upon the first day of the month following attainment of age 60 if it occurs after the first anniversary of retirement, by 3% of the originally granted pension and by an additional 3% of the originally granted pension in January of each year thereafter.
- (b) The monthly pension of a police officer who retired from service with 20 or more years of service, on or before July 1, 1971, shall be increased in January of the year following the year of attaining age 65 or in January of 1972, if then over age 65, by 3% of the originally granted pension for each year the police officer received pension payments. In each January thereafter, he or she shall receive an additional increase of 3% of the original pension.
- (c) The monthly pension of a police officer who retires on disability or is retired for disability shall be increased in January of the year following the year of attaining age 60, by 3% of the original grant of pension for each year he or she received pension payments. In each January thereafter, the police officer shall receive an additional increase of 3% of the original pension.
- (d) The monthly pension of a police officer who retires after January 1, 1986, shall be increased, upon either the first of the month following the first anniversary of the date of retirement if the officer is 55 years of age or over, or upon the first day of the month following attainment of age 55 if it occurs after the first anniversary of retirement, by 1/12 of 3% of the originally granted pension for each full month that has elapsed since the pension began, and by an additional 3% of the originally granted pension in January of each year thereafter.
  - The changes made to this subsection (d) by this amendatory Act of the 91st General Assembly apply to all initial increases that become payable under this subsection on or after January 1, 1999. All initial increases that became payable under this subsection on or after January 1, 1999 and before the effective date of this amendatory Act shall be recalculated and the additional amount accruing for that period, if any, shall be payable to the pensioner in a lump sum.
- (e) Notwithstanding the provisions of subsection (a), upon the first day of the month following (1) the first anniversary of the date of retirement, or (2) the attainment of age 55, or (3) July 1, 1987, whichever occurs latest, the monthly pension of a police officer who retired on or after January 1, 1977 and on or before January 1, 1986, and did not receive an increase under subsection (a) before July 1, 1987, shall be increased by 3% of the originally granted monthly pension for each full year that has elapsed since the pension began, and by an additional 3% of the originally granted pension in each January thereafter. The increases provided under this subsection are in lieu of the increases provided in subsection (a).
- (f) Notwithstanding the other provisions of this Section, beginning with increases granted on or after July 1, 1993, the second and all subsequent automatic annual increases granted under subsection (a), (b), (d), or (e) of this Section shall be calculated as 3% of the amount of pension payable at the time of the increase,

including any increases previously granted under this Section, rather than 3% of the originally granted pension amount. Section 1-103.1 does not apply to this subsection (f).

(Source: P.A. 91-939, eff. 2-1-01.)

## Pension to Survivors

(40 ILCS 5/3-112) (from Ch. 108 1/2, par. 3-112)

Sec. 3-112. Pension to survivors.

- (a) Upon the death of a police officer entitled to a pension under Section 3-111, the surviving spouse shall be entitled to the pension to which the police officer was then entitled. Upon the death of the surviving spouse, or upon the remarriage of the surviving spouse if that remarriage terminates the surviving spouse's eligibility under Section 3-121, the police officer's unmarried children who are under age 18 or who are dependent because of physical or mental disability shall be entitled to equal shares of such pension. If there is no eligible surviving spouse and no eligible child, the dependent parent or parents of the officer shall be entitled to receive or share such pension until their death or marriage or remarriage after the death of the police officer.
- (b) Upon the death of a police officer while in service, having at least 20 years of creditable service, or upon the death of a police officer who retired from service with at least 20 years of creditable service, whether death occurs before or after attainment of age 50, the pension earned by the police officer as of the date of death as provided in Section 3-111 shall be paid to the survivors in the sequence provided in subsection (a) of this Section.
- (c) Upon the death of a police officer while in service, having at least 10 but less than 20 years of service, a pension of 1/2 of the salary attached to the rank or ranks held by the officer for one year immediately prior to death shall be payable to the survivors in the sequence provided in subsection (a) of this Section. If death occurs as a result of the performance of duty, the 10 year requirement shall not apply and the pension to survivors shall be payable after any period of service.
- (d) Beginning July 1, 1987, a minimum pension of \$400 per month shall be paid to all surviving spouses, without regard to the fact that the death of the police officer occurred prior to that date. If the minimum pension established in Section 3-113.1 is greater than the minimum provided in this subsection, the Section 3-113.1 minimum controls.
- (e) The pension of the surviving spouse of a police officer who dies (i) on or after January 1, 2001, (ii) without having begun to receive either a retirement pension payable under Section 3-111 or a disability pension payable under Section 3-114.1, 3-114.2, 3-114.3, or 3-114.6, and (iii) as a result of sickness, accident, or injury incurred in or resulting from the performance of an act of duty shall not be less than 100% of the salary attached to the rank held by the deceased police officer on the last day of service, notwithstanding any provision in this Article to the contrary.

(Source: P.A. 91-939, eff. 2-1-01.)

Minimum Retirement, Survivor, and Disability Pensions (40 ILCS 5/3-113.1)

Sec. 3-113.1. Minimum retirement, survivor, and disability pensions.

- (a) Beginning January 1, 1999, the minimum retirement pension payable to a police officer with 20 or more years of creditable service, the minimum disability pension payable under Section 3-114.1, 3-114.2, 3-114.3, or 3-114.6, and the minimum surviving spouse's pension shall be \$600 per month, without regard to whether the police officer was in service on or after the effective date of this amendatory Act of the 91st General Assembly.
  - In the case of a pensioner whose pension began before the effective date of this amendatory Act and is subject to increase under this subsection (a), the pensioner shall be entitled to a lump sum payment of the amount of that increase accruing from January 1, 1999 (or the date the pension began, if later) to the effective date of this amendatory Act.
- (b) Beginning January 1, 2000, the minimum retirement pension payable to a police officer with 20 or more years of creditable service, the minimum disability pension payable under Section 3-114.1, 3-114.2, 3-114.3, or 3-114.6, and the minimum surviving spouse's pension shall be \$800 per month, without regard to whether the police officer was in service on or after the effective date of this amendatory Act of the 91st General Assembly.
- (c) Beginning January 1, 2001, the minimum retirement pension payable to a police officer with 20 or more years of creditable service, the minimum disability pension payable under Section 3-114.1, 3-114.2, 3-114.3, or 3-114.6, and the minimum surviving spouse's pension shall be \$1000 per month, without regard to whether the police officer was in service on or after the effective date of this amendatory Act of the 91st General Assembly.
- (d) This Section does not grant a pension to any surviving spouse who is not otherwise eligible to receive a pension under this Article.
- (e) No survivor benefits are payable to a participant in the self-managed plan. (Source: P.A. 91-466, eff. 8-6-99; 91-939, eff. 2-1-01.)

## Disability Pension - Line of Duty

(40 ILCS 5/3-114.1) (from Ch. 108 1/2, par. 3-114.1)

Sec. 3-114.1. Disability pension - Line of duty.

- (a) If a police officer as the result of sickness, accident or injury incurred in or resulting from the performance of an act of duty, is found to be physically or mentally disabled for service in the police department, so as to render necessary his or her suspension or retirement from the police service, the police officer shall be entitled to a disability retirement pension equal to the greatest of
  - (1) 65% of the salary attached to the rank on the police force held by the officer at the date of suspension of duty or retirement,
  - (2) the retirement pension that the police officer would be eligible to receive if he or she retired (but not including any automatic annual increase in that retirement pension), or
  - (3) the pension provided under subsection (d), if applicable.

- A police officer shall be considered "on duty" while on any assignment approved by the chief of the police department of the municipality he or she serves, whether the assignment is within or outside the municipality.
- (b) If a police officer on disability pension dies while still disabled, the disability pension shall continue to be paid to his or her survivors in the sequence provided in Section 3-112.
- (c) From and after July 1, 1987, any pension payable under this Section shall be at least \$400 per month, without regard to the fact that the disability or death of the police officer occurred prior to that date. If the minimum pension established in Section 3-113.1 is greater than the minimum provided in this Section, the Section 3-113.1 minimum controls.
- (d) A disabled police officer who
  - (1) is receiving a pension under this Section on the effective date of this amendatory Act of the 91st General Assembly,
  - (2) files with the Fund, within 30 days after that effective date and annually thereafter while the pension remains payable, a written application for the benefits of this subsection, including an affidavit stating that the applicant has not earned any income from gainful employment during the most recently concluded tax year and a copy of his or her most recent Illinois income tax return,
  - (3) has service credit in the Fund for at least 7 years of active duty, and
  - (4) has been receiving the pension under this Section for a period which, when added to the officer's total service credit in the Fund, equals at least 20 years, shall be eligible to receive an annual noncompounded increase in his or her pension under this Section, equal to 3% of the original pension.

The Fund may take appropriate steps to verify the applicant's disability and earnings status, and for this purpose may request from the Department of Revenue a certified copy of the applicant's Illinois income tax return for any year for which a benefit under this Section is payable or has been paid.

The annual increase shall accrue on each anniversary of the initial pension payment date, for so long as the pension remains payable to the disabled police officer and the required annual application is made, except that the annual increases under this subsection shall cease if the disabled police officer earns income from gainful employment. Within 60 days after accepting an initial application under this subsection, the Fund shall pay to the disabled police officer, in a lump sum without interest, the amounts resulting from the annual increases that have accrued retroactively.

This subsection is not limited to persons in active service on or after its effective date, but it applies only to a pension that is payable under this Section to a disabled police officer (rather than a survivor). Upon the death of the disabled police officer, the annuity payable under this Section to his or her survivors shall include any annual increases previously received, but no additional increases shall accrue under this subsection.

(Source: P.A. 91-939, eff. 2-1-01.)

## Disability Pension - Not on Duty

(40 ILCS 5/3-114.2) (from Ch. 108 1/2, par. 3-114.2)

Sec. 3-114.2. Disability pension - Not on duty. A police officer who becomes disabled as a result of any cause other than the performance of an act of duty, and who is found to be physically or mentally disabled so as to render necessary his or her suspension or retirement from police service in the police department, shall be entitled to a disability pension of 50% of the salary attached to the officer's rank on the police force at the date of suspension of duty or retirement.

If a police officer on disability pension dies while still disabled, the disability pension shall continue to be paid to the officer's survivors in the sequence provided in Section 3-112.

From and after July 1, 1987, any pension payable under this Section shall be at least \$400 per month, without regard to the fact that the disability or death of the police officer occurred prior to that date. If the minimum pension established in Section 3-113.1 is greater than the minimum provided in this Section, the Section 3-113.1 minimum controls. (Source: P.A. 91-939, eff. 2-1-01.)

## Heart Attack or Stroke Suffered in Performance of Duties

(40 ILCS 5/3-114.3) (from Ch. 108 1/2, par. 3-114.3)

Sec. 3-114.3. Heart attack or stroke suffered in performance of duties. Any police officer who suffers a heart attack or stroke as a result of the performance and discharge of police duty shall be considered as having been injured in the performance of an act of duty and shall be eligible for the benefits provided under this Article for police officers injured in the performance of an act of duty or, if applicable, the benefits provided in Section 3-114.6.

(Source: P.A. 90-766, eff. 8-14-98; 91-939, eff. 2-1-01.)

## Return to Active Duty after Disability

(40 ILCS 5/3-114.4) (from Ch. 108 1/2, par. 3-114.4)

Sec. 3-114.4. Return to active duty after disability. A police officer who receives a disability pension under Section 3-114.1, 3-114.2, or 3-114.6 for more than 2 years and who returns to active duty must remain in active police service for at least 5 years before becoming eligible for a disability pension greater than the pension paid for the prior disability.

(Source: P.A. 90-766, eff. 8-14-98.)

# Reduction of Disability and Survivor's Benefits for Corresponding Benefits Payable under Workers' Compensation and Workers' Occupational Diseases Acts

(40 ILCS 5/3-114.5) (from Ch. 108 1/2, par. 3-114.5)

Sec. 3-114.5. Reduction of disability and survivor's benefits for corresponding benefits payable under Workers' Compensation and Workers' Occupational Diseases Acts.

(a) Whenever a person is entitled to a disability or survivor's benefit under this Article and to benefits under the Workers' Compensation Act or the Workers' Occupational Diseases Act for the same injury or disease, the benefits payable under this Article shall be reduced by an amount computed in accordance with subsection (b) of this Section. There shall be no reduction, however, for any of the following: payments

for medical, surgical and hospital services, non-medical remedial care and treatment rendered in accordance with a religious method of healing recognized by the laws of this State and for artificial appliances; payments made for scheduled losses for the loss of or permanent and complete or permanent and partial loss of the use of any bodily member or the body taken as a whole under subdivision (d)2 or subsection (e) of Section 8 of the Workers' Compensation Act or Section 7 of the Workers' Occupational Diseases Act; payments made for statutorily prescribed losses under subdivision (d)2 of Section 8 of the Workers' Compensation Act or Section 7 of the Workers' Occupational Diseases Act; and that portion of the payments which is utilized to pay attorneys' fees and the costs of securing the workers' compensation benefits under either the Workers' Compensation Act or Workers' Occupational Diseases Act.

- (b) The reduction prescribed by this Section shall be computed as follows:
  - (1) In the event that a person entitled to benefits under this Article incurs costs or attorneys' fees in order to establish his entitlement, the reduction prescribed by this Section shall itself be reduced by the amount of such costs and attorneys' fees.
  - (2) If the benefits deductible under this Section are stated in a weekly amount, the monthly amount for the purpose of this Section shall be 52 times the weekly amount, divided by 12.

(Source: P.A. 84-1472.)

## Occupational Disease Disability Pension

(40 ILCS 5/3-114.6)

Sec. 3-114.6. Occupational disease disability pension.

- (a) This Section applies only to police officers who are employed by a municipality with a combined police and fire department and who have regular firefighting duties in addition to their law enforcement duties.
- (b) The General Assembly finds that service in a police department that also has firefighting duties requires officers to perform unusual tasks in times of stress and danger; that officers are subject to exposure to extreme heat or extreme cold in certain seasons while performing their duties; that they are required to work in the midst of and are subject to heavy smoke fumes and carcinogenic, poisonous, toxic, or chemical gases from fires; and that these conditions exist and arise out of or in the course of employment.
- (c) An active officer with 5 or more years of creditable service who is found to be unable to perform his or her duties in the department by reason of heart disease, stroke, tuberculosis, or any disease of the lungs or respiratory tract, resulting from service as an officer, is entitled to an occupational disease disability pension during any period of such disability for which he or she has no right to receive salary.

An active officer who has completed 5 or more years of service and is unable to perform his or her duties in the department by reason of a disabling cancer, which develops or manifests itself during a period while the officer is in the service of the department, is entitled to receive an occupational disease disability benefit during any period of such disability for which he or she does not have a right to receive salary. In order to receive this occupational disease disability benefit,

- (i) the cancer must be of a type that may be caused by exposure to heat, radiation, or a known carcinogen as defined by the International Agency for Research on Cancer and
- (ii) the cancer must (and is rebuttably presumed to) arise as a result of service as an officer.

An officer who, after the effective date of this amendatory Act of 1998, enters the service of a combined police and fire department and has regular firefighting duties shall be examined by one or more practicing physicians appointed by the board. If the examination discloses impairment of the heart, lungs, or respiratory tract, or the existence of cancer, the officer shall not be entitled to an occupational disease disability pension under this Section unless and until a subsequent examination reveals no such impairment or cancer.

The occupational disease disability pension shall be equal to the greater of 65% of the salary attached to the rank held by the officer at the time of his or her removal from the municipality's department payroll or (2) the retirement pension that the police officer would be eligible to receive if he or she retired (but not including any automatic annual increase in that retirement pension).

The occupational disease disability pension is payable to the officer during the period of the disability. If the disability ceases before the death of the officer, the disability pension payable under this Section shall also cease and the officer thereafter shall receive such pension benefits as are provided in accordance with other provisions of this Article.

If an officer dies while still disabled and receiving a disability pension under this Section, the disability pension shall continue to be paid to the officer's survivors in the sequence provided in Section 3-112.

(Source: P.A. 90-766, eff. 8-14-98; 91-939, eff. 2-1-01.)

## Certificate of Disability

(40 ILCS 5/3-115) (from Ch. 108 1/2, par. 3-115)

Sec. 3-115. Certificate of disability. A disability pension shall not be paid unless there is filed with the board certificates of the police officer's disability, subscribed and sworn to by the police officer if not under legal disability, or by a representative if the officer is under legal disability, and by the police surgeon (if there be one) and 3 practicing physicians selected by the board. The board may require other evidence of disability. Medical examination of a police officer retired for disability shall be made at least once each year prior to attainment of age 50, as verification of the continuance of disability for service as a police officer. No examination shall be required after age 50. (Source: P.A. 83-1440.)

## **Examination and Emergency Service**

(40 ILCS 5/3-116) (from Ch. 108 1/2, par. 3-116)

Sec. 3-116. Examination and emergency service. A police officer whose duty is suspended because of disability may be summoned to appear before the board, and to submit to an examination to determine fitness for duty. The officer shall abide by the board's decision. If a police officer retired for disability, except one who voluntarily retires after 20 years'

service, is found upon medical examination to have recovered from disability, the board shall certify to the chief of police that the member is no longer disabled and is able to resume the duties of his or her position. In case of emergency, a disabled police officer may be assigned to and shall perform such duty without right to compensation as the chief of police or chief officer of the municipality may direct.

(Source: P.A. 83-1440.)

## **Disability Pension Option**

(40 ILCS 5/3-116.1) (from Ch. 108 1/2, par. 3-116.1)

Sec. 3-116.1. Disability pension option. A police officer age 50 or older who is receiving a disability pension may by written application to the board, elect the disability pension option if the period during which a disability pension was paid when added to the period of active service equals at least 20 years. The election shall permit the officer to continue to receive a retirement pension for the remainder of his or her life of 1/2 of the salary at the date of the retirement on disability in lieu of any amounts which would have been payable to the officer under Section 3-111.

(Source: P.A. 83-1440.)

## Police officers over Age 50

(40 ILCS 5/3-117) (from Ch. 108 1/2, par. 3-117)

Sec. 3-117. Police officers over age 50. This Article shall not be construed to require the retirement at age 50 of any police officer capable of performing his or her duties. (Source: P.A. 83-1440.)

## Waiver

(40 ILCS 5/3-117.1) (from Ch. 108 1/2, par. 3-117.1)

Sec. 3-117.1. Waiver. A retired police officer or surviving spouse may execute a written waiver of the right to receive all or part of his or her pension. A waiver shall take effect upon its being filed with the board and may be revoked only within the first 30 days after it is filed with the board.

(Source: P.A. 83-1440.)

## Marriage after Retirement

(40 ILCS 5/3-120) (from Ch. 108 1/2, par. 3-120)

Sec. 3-120. Marriage after retirement.

- (a) If a police officer marries subsequent to retirement on any pension under this Article other than a pension established under Section 3-109.3, the surviving spouse and the children of such surviving spouse shall receive no pension on the death of the officer, except as provided in subsection (b).
- (b) Notwithstanding Section 1-103.1 of this Code, this Section shall not be deemed to disqualify from receiving a survivor's pension the surviving spouse and children of any police officer who
  - (i) retired from service in 1973, married the surviving spouse during 1974, and died in 1988, or
  - (ii) retired on disability in October of 1982, married the surviving spouse during 1991, and died in 1992.

In the case of a person who becomes eligible for a benefit under this subsection (b), the benefit shall begin to accrue on July 1, 1990 or July 1 of the year following the police officer's death, whichever is later.

(Source: P.A. 91-939, eff. 2-1-01.)

## Marriage and Remarriage

(40 ILCS 5/3-121) (from Ch. 108 1/2, par. 3-121)

Sec. 3-121. Marriage and remarriage. The pensions provided in Sections 3-112, 3-114.1, 3-114.2, and 3-114.6 shall not be paid to a child or dependent parent after marriage or remarriage of the child or dependent parent following the death of the police officer.

The pensions provided in Sections 3-112, 3-114.1 and 3-114.2 shall not be paid to a surviving spouse after remarriage following the death of the police officer, if the remarriage occurs

- (i) prior to January 1, 1974 or
- (ii) after December 31, 1974 but before the effective date of this amendatory Act of 1995.

Remarriage on or after the effective date of this amendatory Act of 1995 does not affect the surviving spouse's eligibility for those pensions, regardless of whether the deceased police officer was in service on or after that effective date. A surviving spouse whose pension was terminated due to remarriage during 1974, and who applies for reinstatement of that pension before January 1, 1990, shall be entitled to have the pension reinstated beginning on January 1, 1990.

(Source: P.A. 89-408, eff. 11-15-95; 90-766, eff. 8-14-98.)

## Pensions to Survivors of Male and Female Police Officers

(40 ILCS 5/3-122) (from Ch. 108 1/2, par. 3-122)

Sec. 3-122. Pensions to survivors of male and female police officers. All provisions of this Article relating to pensions to a surviving spouse, children or dependent parents of a police officer shall apply with equal force to the surviving spouse, minor children and dependent parents of male and female police officers without any modification whatsoever.

(Source: P.A. 83-1440.)

## Non-resident Pensioner

(40 ILCS 5/3-123) (from Ch. 108 1/2, par. 3-123)

Sec. 3-123. Non-resident pensioner. A pensioner under this Article who resides outside of Illinois shall from time to time furnish the board such proof or affidavits as the board may require concerning compliance with the provisions of this Article.

(Source: P.A. 83-1440.)

## Refund

(40 ILCS 5/3-124) (from Ch. 108 1/2, par. 3-124)

Sec. 3-124. Refund. A police officer who is separated from police service after June 30, 1953 with less than 20 years of service is entitled to a refund upon request of all contributions made by the officer to the police pension fund.

Acceptance of a refund shall bar the police officer and his or her dependents from any further participation in the benefits of this Article subject to restoration upon re-entry into service and repayment to the fund of the refund together with interest at 2% per annum from the date of refund until the date of repayment.

If a police officer dies with less than 10 years of police service, the officer's contributions to the police pension fund shall, upon the written request of his or her surviving spouse, be refunded to the spouse without interest. If upon the death of a police officer, there is no surviving spouse, the excess of the officer's contributions to the fund over any pension payments shall be refunded to his or her heirs or estate. Acceptance of this refund shall bar the police officer's dependents or estate from any further participation in the benefits provided under this Article.

(Source: P.A. 83-1440.)

## Re-entry into Active Service

(40 ILCS 5/3-124.1) (from Ch. 108 1/2, par. 3-124.1)

Sec. 3-124.1. Re-entry into active service. If a police officer who is receiving pension payments other than as provided in Section 3-109.3 re-enters active service, pension payment shall be suspended while he or she is in service. When he or she again retires, pension payments shall be resumed. If the police officer remains in service after re-entry for a period of less than 5 years, the pension shall be the same as upon first retirement. If the officer's service after re-entry is at least 5 years and the officer makes the required contributions during the period of re-entry, his or her pension shall be recomputed by taking into account the additional period of service and salary.

(Source: P.A. 91-939, eff. 2-1-01.)

## **Deduction for Group Plans**

(40 ILCS 5/3-124.2) (from Ch. 108 1/2, par. 3-124.2)

Sec. 3-124.2. Deduction for group plans. If a municipality sponsors a group hospital and medical plan which includes retired police officers and their spouses, upon written request of a retired police officer, deductions shall be made from the pension payments of the officer in the amounts which the officer is required to contribute toward the group plan in order to obtain such coverage.

Whenever continued group insurance coverage is elected in accordance with the provisions of Section 367g of the Illinois Insurance Code, as now or hereafter amended, the total monthly premium for such continued group insurance coverage or such portion thereof as is not paid by the municipality shall, upon request of the person electing such continued group insurance coverage, be deducted from any monthly pension benefit otherwise payable to such person pursuant to this Article, to be remitted by the pension fund making such deduction to the insurance company or other entity providing the group insurance coverage.

(Source: P.A. 84-1010.)

## Financing

(40 ILCS 5/3-125) (from Ch. 108 1/2, par. 3-125)

Sec. 3-125. Financing. The city council or the board of trustees of the municipality shall annually levy a tax upon all the taxable property of the municipality at the rate on the

dollar which will produce an amount which, when added to the deductions from the salaries or wages of police officers, and revenues available from other sources, will equal a sum sufficient to meet the annual requirements of the police pension fund. The annual requirements to be provided by such tax levy are equal to

- (1) the normal cost of the pension fund for the year involved, plus
- (2) the amount necessary to amortize the fund's unfunded accrued liabilities as provided in Section 3-127. The tax shall be levied and collected in the same manner as the general taxes of the municipality, and in addition to all other taxes now or hereafter authorized to be levied upon all property within the municipality, and shall be in addition to the amount authorized to be levied for general purposes as provided by Section 8-3-1 of the Illinois Municipal Code, approved May 29, 1961, as amended.

The police pension fund shall consist of the following moneys which shall be set apart by the treasurer of the municipality:

- (1) All moneys derived from the taxes levied hereunder;
- (2) Contributions by police officers under Section 3-125.1;
- (3) All moneys accumulated by the municipality under any previous legislation establishing a fund for the benefit of disabled or retired police officers;
- (4) Donations, gifts or other transfers authorized by this Article. (Source: P.A. 83-1440.)

## Contributions by Police Officers

(40 ILCS 5/3-125.1) (from Ch. 108 1/2, par. 3-125.1)

Sec. 3-125.1. Contributions by police officers. Each police officer shall contribute to the pension fund the following percentages of salary for the periods stated: Beginning July 1, 1909 and prior to July 23, 1943, 1% (except that prior to July 1, 1921 not more than one dollar per month shall be deducted, and except that beginning July 1, 1921 and prior to July 1, 1927 not more than \$2 per month shall be deducted); beginning July 23, 1943 and prior to July 20, 1949, 3%; beginning July 20, 1949 and prior to July 17, 1959, 5%; beginning July 17, 1959 and prior to July 1, 1971, 7%; beginning July 1, 1971 and prior to July 1, 1975, 7 1/2%; beginning July 1, 1975 and prior to January 1, 1987, 8 1/2%; beginning January 1, 1987 and prior to January 1, 2001, 9%; and beginning January 1, 2001, 9.91%. Such sums shall be paid or deducted monthly. Contribution to the self-managed plan shall be no less than 10% of salary.

"Salary" means the annual salary, including longevity, attached to the police officer's rank, as established by the municipality's appropriation ordinance, including any compensation for overtime which is included in the salary so established, but excluding any "overtime pay", "holiday pay", "bonus pay", "merit pay", or any other cash benefit not included in the salary so established.

(Source: P.A. 91-939, eff. 2-1-01.)

## Pick up of Contributions

(40 ILCS 5/3-125.2) (from Ch. 108 1/2, par. 3-125.2)

Sec. 3-125.2. Pick up of contributions. A municipality may pick up the police officers' contributions required by Section 3-125.1 for all salary earned after December 31, 1981. If a municipality decides not to pick up the contributions, the required contributions shall

continue to be deducted from salary. If contributions are picked up, they shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code. However, the municipality shall continue to withhold Federal and State income taxes based upon these contributions until the Internal Revenue Service or the Federal courts rule that pursuant to Section 414(h) of the United States Internal Revenue Code these contributions shall not be included as gross income of the police officers until such time as they are distributed or made available. The municipality shall pay these contributions from the same source of funds which is used to pay the salaries of police officers. The municipality may pick up these contributions by a reduction in the cash salary of the police officer or by an offset against a future salary increase or by a combination of a reduction in salary and offset against a future salary increase. If contributions are picked up they shall be considered for all purposes of this Article as police officers' contributions made prior to the time that contributions were picked up.

(Source: P.A. 83-1440.)

## Reserves

(40 ILCS 5/3-127) (from Ch. 108 1/2, par. 3-127)

Sec. 3-127. Reserves. The board shall establish and maintain a reserve to insure the payment of all obligations incurred under this Article excluding retirement annuities established under Section 3-109.3. The reserve to be accumulated shall be equal to the estimated total actuarial requirements of the fund.

If a pension fund has a reserve of less than the accrued liabilities of the fund, the board of the pension fund, in making its annual report to the city council or board of trustees of the municipality, shall designate the amount, calculated as a level percentage of payroll, needed annually to insure the accumulation of the reserve to the level of the fund's accrued liabilities over a period of 40 years from July 1, 1993 for pension funds then in operation, or from the date of establishment in the case of a fund created thereafter, so that the necessary reserves will be attained over such a period.

(Source: P.A. 91-939, eff. 2-1-01.)

## **Board Created**

(40 ILCS 5/3-128) (from Ch. 108 1/2, par. 3-128)

Sec. 3-128. Board created. A board of 5 members shall constitute a board of trustees to administer the pension fund and to designate the beneficiaries thereof. The board shall be known as the "Board of Trustees of the Police Pension Fund" of the municipality.

Two members of the board shall be appointed by the mayor or president of the board of trustees of the municipality involved. The 3rd and 4th members of the board shall be elected from the active participants of the pension fund by such active participants. The 5th member shall be elected by and from the beneficiaries.

One of the members appointed by the mayor or president of the board of trustees shall serve for one year beginning on the 2nd Tuesday in May after the municipality comes under this Article. The other appointed member shall serve for 2 years beginning on the same date. Their successors shall serve for 2 years each or until their successors are appointed and qualified.

The election for board members shall be held biennially on the 3rd Monday in April, at such place or places in the municipality and under the Australian ballot system and such other regulations as shall be prescribed by the appointed members of the board.

The active pension fund participants shall be entitled to vote only for the active participant members of the board. All beneficiaries of legal age may vote only for the member chosen from among the beneficiaries. No person shall be entitled to cast more than one ballot at such election. The term of elected members shall be 2 years, beginning on the 2nd Tuesday of the first May after the election.

Upon the death, resignation or inability to act of any elected board member, his or her successor shall be elected for the unexpired term at a special election, to be called by the board and conducted in the same manner as the regular biennial election.

Members of the board shall neither receive nor have any right to receive any salary from the pension fund for services performed as trustees in that office. (Source: P.A. 83-1440.)

#### Rooms

(40 ILCS 5/3-129) (from Ch. 108 1/2, par. 3-129)

Sec. 3-129. Rooms. Suitable rooms for board offices and meetings shall be assigned by the mayor or city council or board of trustees of the municipality.

(Source: P.A. 83-1440.)

## **Board Meetings**

(40 ILCS 5/3-130) (from Ch. 108 1/2, par. 3-130)

Sec. 3-130. Board meetings. The board shall hold annually regular quarterly meetings in July, October, January and April, and special meetings as called by the president.

At the regular July meeting, the board shall select from its members a president, vice-president, secretary, and assistant secretary to serve for one year and until their respective successors are elected and qualified.

The vice-president shall perform the duties of president during any vacancy in that office, or during the president's absence from the municipality, or if he or she is by reason of illness or other causes unable to perform the duties of the office.

The assistant secretary shall act for the secretary whenever necessary to discharge the functions of such office.

(Source: P.A. 83-1440.)

#### Powers and Duties of Board

(40 ILCS 5/3-131) (from Ch. 108 1/2, par. 3-131)

Sec. 3-131. Powers and duties of board. The board shall have the powers and duties stated in Sections 3-132 through 3-140.1 in addition to the other powers and duties provided under this Article.

(Source: P.A. 83-1440.)

## To Control and Manage the Pension Fund

(40 ILCS 5/3-132) (from Ch. 108 1/2, par. 3-132)

Sec. 3-132. To control and manage the Pension Fund. In accordance with the applicable provisions of Articles 1 and 1A and this Article, to control and manage, exclusively, the following:

- (1) the pension fund,
- (2) investment expenditures and income, including interest dividends, capital gains and other distributions on the investments, and
- (3) all money donated, paid, assessed, or provided by law for the pensioning of disabled and retired police officers, their surviving spouses, minor children, and dependent parents.

All money received or collected shall be credited by the treasurer of the municipality to the account of the pension fund and held by the treasurer of the municipality subject to the order and control of the board. The treasurer of the municipality shall maintain a record of all money received, transferred, and held for the account of the board. (Source: P.A. 90-507, eff. 8-22-97.)

## To Order Payments and Issue Certificates

(40 ILCS 5/3-133) (from Ch. 108 1/2, par. 3-133)

Sec. 3-133. To order payments and issue certificates. To order the payment of pensions and other benefits and to issue certificates signed by its president and secretary to the beneficiaries stating the amount and purpose of the payment.

(Source: P.A. 83-1440.)

## To Submit Annual List of Fund Payments

(40 ILCS 5/3-134) (from Ch. 108 1/2, par. 3-134)

Sec. 3-134. To submit annual list of fund payments. To submit annually to the city council or board of trustees at the close of the municipality's fiscal year, a list of persons entitled to payments from the fund, stating the amount of payments, and their purpose, as ordered by the board. It shall also include items of income accrued to the fund during the fiscal year. The list shall be signed by the secretary and president of the board, and attested under oath. A resolution or order for the payment of money shall not be valid unless approved by a majority of the board members, and signed by the president and secretary of the board. (Source: P.A. 83-1440.)

## To Invest Funds

(40 ILCS 5/3-135) (from Ch. 108 1/2, par. 3-135)

Sec. 3-135. To invest funds. Beginning January 1, 1998, the board shall invest funds in accordance with Sections 1-113.1 through 1-113.10 of this Code.

(Source: P.A. 90-507, eff. 8-22-97.)

## To Subpoena Witnesses

(40 ILCS 5/3-136) (from Ch. 108 1/2, par. 3-136)

Sec. 3-136. To subpoena witnesses. To compel witnesses to attend and testify before it upon all matters connected with the administration of this Article, in the manner provided by law for the taking of testimony in the circuit courts of this State. The president, or any board member, may administer oaths to witnesses.

(Source: P.A. 83-1440.)

## To Appoint Clerk

(40 ILCS 5/3-137) (from Ch. 108 1/2, par. 3-137)

Sec. 3-137. To appoint clerk.

To appoint a clerk and define his duties. No person drawing a pension under this Article shall be employed by the Board.

(Source: Laws 1963, p. 161.)

## To Pay Expenses

(40 ILCS 5/3-138) (from Ch. 108 1/2, par. 3-138)

Sec. 3-138. To pay expenses.

To provide for the payment from the fund of all necessary expenses, including clerk hire, printing and witness fees.

(Source: Laws 1963, p. 161.)

## To Keep Records

(40 ILCS 5/3-139) (from Ch. 108 1/2, par. 3-139)

Sec. 3-139. To keep records.

To keep a public record of all its proceedings.

(Source: Laws 1963, p. 161.)

#### To Make Rules

(40 ILCS 5/3-140) (from Ch. 108 1/2, par. 3-140)

Sec. 3-140. To make rules. To make necessary rules and regulations in conformity with the provisions of this Article, and to publish and transmit copies from time to time to all pensioners and contributors.

(Source: P.A. 83-1440.)

## To Accept Donations

(40 ILCS 5/3-140.1) (from Ch. 108 1/2, par. 3-140.1)

Sec. 3-140.1. To accept donations. To accept by gift, grant, transfer, or bequest, any money, real estate, or personal property. Such money and the proceeds from the sale of or the income from such real estate or personal property shall be paid into the pension fund. (Source: P.A. 83-1440.)

## Annual Report by Treasurer

(40 ILCS 5/3-141) (from Ch. 108 1/2, par. 3-141)

Sec. 3-141. Annual report by treasurer. On the 2nd Tuesday in May annually, the treasurer and all other officials of the municipality who had the custody of any pension funds herein provided, shall make a sworn statement to the pension board, and to the mayor and council or president and board of trustees of the municipality, of all moneys received and paid out by them on account of the pension fund during the year, and of the amount of funds then on hand and owing to the pension fund. All surplus then remaining with any official other than the treasurer shall be paid to the treasurer of the municipality. Upon demand of the pension board, any official shall furnish a statement relative to the official method of

collection or handling of the pension funds. All books and records of that official shall be produced at any time by him for examination and inspection by the board. (Source: P.A. 83-1440.)

## Payment of Benefits - Funds Insufficient

(40 ILCS 5/3-142) (from Ch. 108 1/2, par. 3-142)

Sec. 3-142. Payment of benefits - funds insufficient. Any police officer and any eligible surviving spouse, child or children, or dependent parent of the officer to whom the board has ordered benefits to be paid, shall receive a yearly benefit payable in 12 equal monthly installments, which shall be the aggregate amount to which they are entitled.

If at any time there is not sufficient money in the fund to pay the benefits under this Article the city council or board of trustees of the municipality shall make every legal effort to replenish the fund so that all beneficiaries may receive the amounts to which they are entitled. If, thereafter, there still remain insufficient funds, the beneficiaries shall be paid pro rata from the available funds, but no allowance or order of the board shall be held to create any liability against the municipality, but only against the pension fund. (Source: P.A. 83-1440.)

## Report by Board

(40 ILCS 5/3-143) (from Ch. 108 1/2, par. 3-143)

Sec. 3-143. Report by board. The board shall report annually to the city council or board of trustees of the municipality on the condition of the pension fund at the end of its most recently completed fiscal year. The report shall be made prior to the council or board meeting held for the levying of taxes for the year for which the report is made.

## The board shall certify:

- (1) the assets of the fund in its custody at the end of the fiscal year;
- (2) the estimated receipts during the next succeeding fiscal year from deductions from the salaries of police officers, and from all other sources;
- (3) the estimated amount required during the next succeeding fiscal year to
  - (a) pay all pensions and other obligations provided in this Article, and
  - (b) to meet the annual requirements of the fund as provided in Sections 3-125 and 3-127; and
- (4) the total net income received from investment of assets, compared to such income received during the preceding fiscal year.

Before the board makes its report, the municipality shall have the assets of the fund and their current market value verified by an independent certified public accountant of its choice.

(Source: P.A. 90-507, eff. 8-22-97.)

## Application to Certain Police Officer's Annuity and Benefit Funds

(40 ILCS 5/3-144) (from Ch. 108 1/2, par. 3-144)

Sec. 3-144. Application to certain police officer's annuity and benefit funds. As of July 20, 1949, the pension fund established under this Article superseded and replaced any annuity and benefit fund in operation under "An Act to provide for the creation, setting apart, maintenance and administration of a policemen's annuity and benefit fund in cities having

a population of not less than one hundred thousand and not more than two hundred thousand inhabitants", approved June 12, 1931, as amended, which Act was repealed in 1949. Any such superseded fund was merged into and became a part of the pension fund established under this Article.

All annuities, pensions and other benefits granted under any such superseded fund or any pre-existing police pension fund, and claims pending under such funds which were approved by the board of the superseding funds shall be paid by the board of trustees of the funds established under this Article according to the law under which the annuities, pensions or other benefits were granted.

(Source: P.A. 83-1440.)

## **Exemption**

(40 ILCS 5/3-144.1) (from Ch. 108 1/2, par. 3-144.1)

Sec. 3-144.1. All pensions, refunds or disability pension benefits granted under this Article, and every portion thereof, shall be exempt from attachment or garnishment process and shall not be seized, taken, subjected to, detained or levied upon by virtue of any judgment, or any process or proceedings whatsoever issued out of or by any court for the payment and satisfaction in whole or in part of any debt, damage, claim, demand or judgment against a pensioner, refund applicant or other beneficiary hereunder. (Source: P.A. 84-546.)

## **Deduction from Future Payments**

(40 ILCS 5/3-144.2) (from Ch. 108 1/2, par. 3-144.2)

Sec. 3-144.2. The amount of any overpayment, due to fraud, misrepresentation or error, of any pension or benefit granted under this Article may be deducted from future payments to the recipient of such pension or benefit.

(Source: P.A. 82-623.)

## Referendum in Municipalities less than 5,000

(40 ILCS 5/3-145) (from Ch. 108 1/2, par. 3-145)

Sec. 3-145. Referendum in municipalities less than 5,000. This Article shall not be effective in any municipality having a population of less than 5,000 unless the proposition to adopt the Article is submitted to and approved by the voters of the municipality in the manner herein provided.

Whenever the electors of the municipality, equal in number to 5% of the number of legal votes cast at the last preceding general municipal election, petition the city, village or town clerk to submit the proposition whether that municipality shall adopt this Article, the officer to whom the petition is addressed shall certify the proposition to the proper election officials who shall submit the proposition in accordance with the general election law at a regular election in the municipality provided that notice of the referendum, if held before July 1, 1999, has been given in accordance with the provisions of Section 12-5 of the Election Code in effect at the time of the bond referendum, at least 10 and not more than 45 days before the date of the election, notwithstanding the time for publication otherwise imposed by Section 12-5. Notices required in connection with the submission of public questions on or after July 1, 1999 shall be as set forth in Section 12-5 of the Election Code.

If the proposition is not adopted at that election, it may be submitted in like manner at any regular election thereafter. The proposition shall be substantially in the following form:

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Shall the city (or village or incorporated town) of (<u>name</u>) adopt YES Article 3 of the "Illinois Pension ------ Code", pertaining to the creation NO of a police pension fund?

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If a majority of the votes cast on the proposition is for the proposition, this Article is adopted in that municipality.

(Source: P.A. 90-812, eff. 1-26-99; 91-57, eff. 6-30-99.)

## **Felony Conviction**

(40 ILCS 5/3-147) (from Ch. 108 1/2, par. 3-147)

Sec. 3-147. Felony conviction. None of the benefits provided in this Article shall be paid to any person who is convicted of any felony relating to or arising out of or in connection with his or her service as a police officer.

This Section shall not impair any contract or vested right acquired prior to July 11, 1955 under any law continued in this Article, nor preclude the right to a refund.

All persons entering service subsequent to July 11, 1955 are deemed to have consented to the provisions of this Section as a condition of coverage.

(Source: P.A. 83-1440.)

## Administrative Review

(40 ILCS 5/3-148) (from Ch. 108 1/2, par. 3-148)

Sec. 3-148. Administrative review. The provisions of the Administrative Review Law, and all amendments and modifications thereof and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the retirement board provided for under this Article. The term "administrative decision" is as defined in Section 3-101 of the Code of Civil Procedure.

(Source: P.A. 82-783.)

## General Provisions and Savings Clause

(40 ILCS 5/3-149) (from Ch. 108 1/2, par. 3-149)

Sec. 3-149. General provisions and savings clause. The provisions of Article 1 and Article 23 of this Code apply to this Article as though such provisions were fully set forth in this Article as a part thereof.

(Source: Laws 1963, p. 161.)

## **Applicability of Home Rule Powers**

(40 ILCS 5/3-150) (from Ch. 108 1/2, par. 3-150)

Sec. 3-150. Applicability of home rule powers. A home rule unit, as defined in Article VII of the 1970 Illinois Constitution or any amendment thereto, shall have no power to change, alter, or amend in any way the provisions of this Article. A home rule unit which is a

municipality, as defined in Section 3-103, shall not provide for, singly or as a part of any plan or program, by any means whatsoever, any type of retirement or annuity benefit to a police officer other than through establishment of a fund as provided in this Article. (Source: P.A. 83-1440.)

## Savings Clause

(40 ILCS 5/3-152) (from Ch. 108 1/2, par. 3-152)

Sec. 3-152. Savings clause. The repeal or amendment of any Section or provision of this Article by this amendatory Act of 1984 shall not affect or impair any pensions, benefits, rights or credits accrued or in effect prior thereto.

(Source: P.A. 83-1440.)

#### MUNICIPAL TREASURER'S REFERENCE MANUAL

#### **PENSIONS**

(40 ILCS 5/) Illinois Pension Code. (40 ILCS 5/Art. 4 heading)

#### VII. PENSIONS

#### ARTICLE 4. FIREFIGHTERS' PENSION FUND - MUNICIPALITIES 500,000 AND UNDER

**CREATION OF FUND** 

**TERMS DEFINED** 

**MUNICIPALITY** 

FIREMEN'S PENSION FUND ACT OF 1919

**BOARD** 

**DEFERRED PENSIONER** 

PERMANENT DISABILITY

**PARTICIPANT** 

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## Creation of Fund

(40 ILCS 5/4-101) (from Ch. 108 1/2, par. 4-101)

Sec. 4-101. Creation of fund. In each municipality as defined in Section 4-103, the city council or the board of trustees, as the case may be, shall establish and administer a firefighters' pension fund as prescribed in this Article, for the benefit of its firefighters and of their surviving spouses, children and certain other dependents.

(Source: P.A. 83-1440.)

## Terms Defined

(40 ILCS 5/4-102) (from Ch. 108 1/2, par. 4-102)

Sec. 4-102. Terms defined. The terms used in this Article have the meanings ascribed to them in Sections 4-103 through 4-106, except when the context otherwise requires. (Source: P.A. 83-1440.)

#### Municipality

(40 ILCS 5/4-103) (from Ch. 108 1/2, par. 4-103)

Sec. 4-103. Municipality. "Municipality":

- (1) Any city, township, village or incorporated town of 5,000 or more but less than 500,000 inhabitants, and any fire protection district having any full-time paid firefighters, and
- (2) any city, village, incorporated town or township of less than 5,000 inhabitants having a full-time paid fire department which adopts the provisions of this article pursuant to the provisions of Section 4-141.

The term "city council" or "board of trustees" includes the board of trustees of a fire protection district and the board of town trustees or other persons empowered to draft the tentative budget and appropriation ordinance and the electors of such a township acting at the annual or special meeting of town electors.

(Source: P.A. 83-1440.)

## Firemen's Pension Fund Act of 1919

(40 ILCS 5/4-104) (from Ch. 108 1/2, par. 4-104)

Sec. 4-104. Firemen's pension fund act of 1919. "Firemen's pension fund act of 1919": "An Act to create a firemen's pension fund in cities, incorporated towns, villages, townships and fire protection districts having a population of not less than 5,000 nor more than 200,000 inhabitants", filed July 11, 1919, as amended. That Act was repealed in 1963. (Source: P.A. 83-1440.)

#### Board

(40 ILCS 5/4-105) (from Ch. 108 1/2, par. 4-105)

Sec. 4-105. Board. "Board": The "Board of Trustees of the Firefighters' Pension Fund" of a municipality as established in Section 4-121.

(Source: P.A. 83-1440.)

#### **Deferred Pensioner**

(40 ILCS 5/4-105a) (from Ch. 108 1/2, par. 4-105a)

Sec. 4-105a. Deferred Pensioner. "Deferred pensioner": a firefighter who has retired having accumulated enough creditable service to qualify for a pension under this Article but who has not attained the required age for commencement of the pension.

(Source: P.A. 83-1440.)

## Permanent Disability

(40 ILCS 5/4-105b) (from Ch. 108 1/2, par. 4-105b)

Sec. 4-105b. Permanent Disability. "Permanent disability": any physical or mental disability that

- (1) can be expected to result in death,
- (2) has lasted for a continuous period of not less than 12 months, or
- (3) can be expected to last for a continuous period of not less than 12 months.

(Source: P.A. 83-1440.)

#### **Participant**

(40 ILCS 5/4-105c)

Sec. 4-105c. Participant. "Participant": A firefighter or deferred pensioner of a pension fund, or a beneficiary of the pension fund.

(Source: P.A. 90-507, eff. 8-22-97.)

## Beneficiary

(40 ILCS 5/4-105d)

Sec. 4-105d. Beneficiary. "Beneficiary": A person receiving benefits from a pension fund, including, but not limited to, retired pensioners, disabled pensioners, their surviving spouses, minor children, disabled children, and dependent parents.

(Source: P.A. 90-507, eff. 8-22-97.)

## Firefighter, Firefighters

(40 ILCS 5/4-106) (from Ch. 108 1/2, par. 4-106)

Sec. 4-106. Firefighter, firefighters. "Firefighter, firefighters":

- (a) In municipalities which have adopted Division 1 of Article 10 of the Illinois Municipal Code, any person employed in the municipality's fire service as a firefighter, fire engineer, marine engineer, fire pilot, bomb technician or scuba diver; and in any of these positions where such person's duties also include those of a firefighter as classified by the Civil Service Commission of that city, and whose duty is to participate in the work of controlling and extinguishing fires at the location of any such fires.
- (b) In municipalities which are subject to Division 2.1 of Article 10 of the Illinois Municipal Code, any person employed by a city in its fire service as a firefighter, fire engineer, marine engineer, fire pilot, bomb technician, or scuba diver; and, in any of these positions whose duties also include those of a firefighter and are certified in the same manner as a firefighter in that city.
- (c) In municipalities which are subject to neither Division 1 nor Division 2.1 of Article 10 of the Illinois Municipal Code, any person who would have been included as a firefighter under sub-paragraph (a) or (b) above except that he served as a de facto and not as a de jure firefighter.
- (d) Notwithstanding the other provisions of this Section, "firefighter" does not include any person who is actively participating in the State Universities Retirement System under subsection (h) of Section 15-107 with respect to the employment for which he or she is a participating employee in that System.
- (e) This amendatory Act of 1977 does not affect persons covered by this Article prior to September 22, 1977.

(Source: P.A. 90-576, eff. 3-31-98.)

## Gender

(40 ILCS 5/4-106a) (from Ch. 108 1/2, par. 4-106a)

Sec. 4-106a. Gender. The masculine gender wherever used in this Article includes the female gender unless manifestly inconsistent with the context.

(Source: P.A. 83-1440.)

<u>Discontinuation of Fire Protection District;</u> Annexation to Fire Protection District (40 ILCS 5/4-106.1) (from Ch. 108 1/2, par. 4-106.1)

Sec. 4-106.1. Discontinuation of fire protection district; annexation to fire protection district.

(a) Whenever a fire protection district which has established a pension fund under this Article is discontinued under "An Act in Relation to Fire Protection Districts", and the municipality assuming the obligations of the district is required to and has established a Firefighters' Pension Fund under this Article, the assets of the fund established by the district shall be transferred to the "Board of Trustees of the Firefighters Pension Fund" of the municipality. The Firefighter's Pension Fund of the municipality shall assume all accrued liabilities of the district's pension fund,

- and all accrued rights, benefits and future expectancies of the members, retired employees and beneficiaries of the district's fund shall remain unimpaired.
- (b) If a municipal fire department for which a pension fund has been established under this Article is discontinued and the affected territory is annexed by a fire protection district, and the fire protection district is required to and has established a firefighters' pension fund under this Article, then the assets of the firefighters' pension fund established by the municipality shall be transferred to the board of trustees of the pension fund of the fire protection district. The firefighters' pension fund of the fire protection district shall assume all liabilities of the municipality's firefighters' pension fund, and all of the accrued rights, benefits, and future expectancies of the members, retired employees, and beneficiaries of the municipality's firefighters' pension fund shall remain unimpaired.

(Source: P.A. 93-123, eff. 7-10-03.)

#### Qualifications

(40 ILCS 5/4-107) (from Ch. 108 1/2, par. 4-107)

Sec. 4-107. Qualifications.

- (a) A firefighter who has not contributed to the fund during the entire period of service, to be entitled to the benefits of this Article, must contribute to the fund the amount he or she would have paid had deductions been made from his or her salary during the entire period of his or her creditable service.
- (b) Any person appointed as a firefighter in a municipality shall, within 3 months after receiving his or her first appointment and within 3 months after any reappointment make written application to the board to come under the provisions of this Article.
- (c) A person otherwise qualified to participate who was excluded from participation by reason of the age or fitness requirements removed by this amendatory Act of 1995 may elect to participate by making a written application to the Board before July 1, 1996. Persons so electing shall begin participation on the first day of the month following the month in which the application is received by the Board. These persons may also elect to establish creditable service for periods of employment as a firefighter during which they did not participate by paying into the pension fund, before January 1, 1997, the amount that the person would have contributed had deductions from salary been made for this purpose at the time the service was rendered, together with interest thereon at 6% per annum, compounded annually, from the time the service was rendered until the date of payment.
- (d) A person described in subsection (h) of Section 15-107 shall not participate in any pension fund established under this Article with respect to employment for which he or she is a participating employee in the State Universities Retirement System.

(Source: P.A. 89-52, eff. 6-30-95; 90-576, eff. 3-31-98.)

## Creditable Service

(40 ILCS 5/4-108) (from Ch. 108 1/2, par. 4-108)

Sec. 4-108. Creditable service.

(a) Creditable service is the time served as a firefighter of a municipality. In computing creditable service, furloughs and leaves of absence without pay exceeding 30 days in any one year shall not be counted, but leaves of absence for illness or accident

- regardless of length, and periods of disability for which a firefighter received no disability pension payments under this Article, shall be counted.
- (b) Furloughs and leaves of absence of 30 days or less in any one year may be counted as creditable service, if the firefighter makes the contribution to the fund that would have been required had he or she not been on furlough or leave of absence. To qualify for this creditable service, the firefighter must pay the required contributions to the fund not more than 90 days subsequent to the termination of the furlough or leave of absence, to the extent that the municipality has not made such contribution on his or her behalf.
- (c) Creditable service includes:
  - (1) Service in the military, naval or air forces of the United States entered upon when the person was an active firefighter, provided that, upon applying for a permanent pension, and in accordance with the rules of the board the firefighter pays into the fund the amount that would have been contributed had he or she been a regular contributor during such period of service, if and to the extent that the municipality which the firefighter served made no such contributions in his or her behalf. The total amount of such creditable service shall not exceed 5 years, except that any firefighter who on July 1, 1973 had more than 5 years of such creditable service shall receive the total amount thereof as of that date.
  - (2) Service prior to July 1, 1976 by a firefighter initially excluded from participation by reason of age who elected to participate and paid the required contributions for such service.
  - (3) Up to 8 years of service by a firefighter as an officer in a statewide firefighters' association when he is on a leave of absence from a municipality's payroll, provided that
    - (i) the firefighter has at least 10 years of creditable service as an active firefighter,
    - (ii) the firefighter contributes to the fund the amount that he would have contributed had he remained an active member of the fund, and
    - (iii) the employee or statewide firefighter association contributes to the fund an amount equal to the employer's required contribution as determined by the board.
  - (4) Time spent as an on-call fireman for a municipality, calculated at the rate of one year of creditable service for each 5 years of time spent as an on-call fireman, provided that
    - (i) the firefighter has at least 18 years of creditable service as an active firefighter,
    - (ii) the firefighter spent at least 14 years as an on-call firefighter for the municipality,
    - (iii) the firefighter applies for such creditable service within 30 days after the effective date of this amendatory Act of 1989,
    - (iv) the firefighter contributes to the Fund an amount representing employee contributions for the number of years of creditable service granted under this subdivision (4), based on the salary and contribution rate in effect

- for the firefighter at the date of entry into the Fund, to be determined by the board, and
- (v) not more than 3 years of creditable service may be granted under this subdivision (4).
  - Creditable service shall not under any other circumstances include time spent as a volunteer firefighter, whether or not any compensation was received therefor. The change made in this Section by Public Act 83-0463 is intended to be a restatement and clarification of existing law, and does not imply that creditable service was previously allowed under this Article for time spent as a volunteer firefighter.
- (5) Time served between July 1, 1976 and July 1, 1988 in the position of protective inspection officer or administrative assistant for fire services, for a municipality with a population under 10,000 that is located in a county with a population over 3,000,000 and that maintains a firefighters' pension fund under this Article, if the position included firefighting duties, notwithstanding that the person may not have held an appointment as a firefighter, provided that application is made to the pension fund within 30 days after the effective date of this amendatory Act of 1991, and the corresponding contributions are paid for the number of years of service granted, based upon the salary and contribution rate in effect for the firefighter at the date of entry into the pension fund, as determined by the Board.
- (6) Service before becoming a participant by a firefighter initially excluded from participation by reason of age who becomes a participant under the amendment to Section 4-107 made by this amendatory Act of 1993 and pays the required contributions for such service.
- (7) Up to 3 years of time during which the firefighter receives a disability pension under Section 4-110, 4-110.1, or 4-111, provided that
  - (i) the firefighter returns to active service after the disability for a period at least equal to the period for which credit is to be established and
  - (ii) the firefighter makes contributions to the fund based on the rates specified in Section 4-118.1 and the salary upon which the disability pension is based.

These contributions may be paid at any time prior to the commencement of a retirement pension. The firefighter may, but need not, elect to have the contributions deducted from the disability pension or to pay them in installments on a schedule approved by the board. If not deducted from the disability pension, the contributions shall include interest at the rate of 6% per year, compounded annually, from the date for which service credit is being established to the date of payment. If contributions are paid under this subdivision (c)(7) in excess of those needed to establish the credit, the excess shall be refunded. This subdivision (c)(7) applies to persons receiving a disability pension under Section 4-110, 4-110.1, or 4-111 on the effective date of this amendatory Act of the 91st General Assembly, as well as persons who begin to receive such a disability pension after that date.

(Source: P.A. 91-466, eff. 8-6-99.)

## <u>Transfer of Creditable Service to General Assembly Retirement System</u>

(40 ILCS 5/4-108.1) (from Ch. 108 1/2, par. 4-108.1)

Sec. 4-108.1. Transfer of creditable service to General Assembly Retirement System.

- (a) Any active member of the General Assembly Retirement System may apply for transfer of credits and creditable service accumulated in any firefighter's pension fund under this Article to the General Assembly Retirement System. Such transfer shall be made forthwith. Payment by the firefighters' pension fund to the General Assembly Retirement System shall be made at the same time and shall consist of:
  - (1) the amounts credited to the applicant through employee contributions; and
  - (2) municipality contributions equal to the accumulated employee contributions as determined under (1) above.

Participation in the firefighters' pension fund shall terminate on the date of transfer.

(b) An active member of the General Assembly may reinstate service and creditable service terminated upon receipt of a refund, by payment to the firefighters' pension fund of the amount of the refund with interest thereon at the rate of 6% per year to the date of payment.

(Source: P.A. 83-1440.)

## Transfer of Creditable Service to Article 8, 9 or 13 Fund

(40 ILCS 5/4-108.2) (from Ch. 108 1/2, par. 4-108.2)

Sec. 4-108.2. Transfer of creditable service to Article 8, 9 or 13 fund.

- (a) Any city officer as defined in Section 8-243.2 of this Code, any county officer elected by vote of the people who is a participant in a pension fund established under Article 9 of this Code, and any elected sanitary district commissioner who is a participant in a pension fund established under Article 13 of this Code, may apply for transfer of his credits and creditable service accumulated in any firefighters' pension fund established under this Article to such Article 8, 9 or 13 fund. Such transfer shall be made forthwith. Payment by the firefighters' pension fund to the Article 8, 9 or 13 fund shall be made at the same time and shall consist of:
  - (1) the amounts credited to the applicant through employee contributions; and
  - (2) municipality contributions equal to the accumulated employee contributions as determined under (1) above.

Participation in the firefighters' pension fund shall terminate on the date of transfer.

(b) Any such elected city officer, county officer or sanitary district commissioner may reinstate credits and creditable service terminated upon receipt of a refund, by payment to the firefighters' pension fund of the amount of the refund with interest thereon at the rate of 6% per year, compounded annually from the date of refund to the date of payment.

(Source: P.A. 85-964; 86-1488.)

## Transfer and Refund

(40 ILCS 5/4-108.3) (from Ch. 108 1/2, par. 4-108.3)

Sec. 4-108.3.

(a) Until July 1, 1989, any active member of the Illinois Municipal Retirement Fund who is a county sheriff may apply for transfer of up to 80 months of creditable

service accumulated in any pension fund established under this Article to the Illinois Municipal Retirement Fund. Such creditable service shall be transferred only upon payment by such pension fund to the Illinois Municipal Retirement Fund of an amount equal to:

- (1) the amounts accumulated to the credit of the applicant on the books of the fund on the date of transfer; and
- (2) employer contributions in an amount equal to the amount determined under subparagraph (1); and
- (3) any interest paid by the applicant in order to reinstate service. Participation in such pension fund as to any credits transferred under this Section shall terminate on the date of transfer.
- (b) Until July 1, 1989, any such sheriff may reinstate creditable service terminated upon receipt of a refund, by payment to the firefighters' pension fund of the amount of the refund, with interest thereon at the rate of 6% per year, compounded annually from the date of refund to the date of payment.

(Source: P.A. 85-941.)

## <u>Transfer of Creditable Service from Article 7 Fund</u> (40 ILCS 5/4-108.4)

Sec. 4-108.4. Transfer of creditable service from Article 7 fund.

- (a) Any firefighter who was excluded from participation in an Article 4 fund because the firefighter earned credit for that service under Article 7 of this Code and who is a participant in the Illinois Municipal Retirement Fund may become an active participant in that firefighter pension fund by making a written application to the Board. Persons so applying shall begin participation on the first day of the month following the month in which the application is received by the Board. An employee who makes application for participation shall not be deemed ineligible to participate in the firefighter pension fund by reason of having failed to apply within the 3-month period specified in subsection (b) of Section 4-107.
- (b) A firefighter who was excluded from participation in an Article 4 fund because the firefighter earned credit for that service under Article 7 of this Code and who is a participant in the Illinois Municipal Retirement Fund may also elect to establish creditable service for those periods of employment as a firefighter during which he or she was excluded from participation in an Article 4 fund by paying into the fund the amount that the person would have contributed had deductions from salary been made for this purpose at the time the service was rendered, together with interest thereon at 6% per annum, compounded annually, from the time the service was rendered until the date of payment, less any amounts transferred from the Illinois Municipal Retirement Fund under Section 7-139.10.
- (c) In no event shall pension credit for the same service rendered by an employee be accredited in more than one pension fund or retirement system under this Code. If an employee applies for service credit under subsection (b), then any creditable service time accumulated in the Illinois Municipal Retirement Fund for the same period must be transferred to the Article 4 fund under Section 7-139.10.

(Source: P.A. 93-689, eff. 7-1-04.)

#### Pension

(40 ILCS 5/4-109) (from Ch. 108 1/2, par. 4-109) Sec. 4-109. Pension.

(a) A firefighter age 50 or more with 20 or more years of creditable service, who is no longer in service as a firefighter, shall receive a monthly pension of 1/2 the monthly salary attached to the rank held by him or her in the fire service at the date of retirement.

The monthly pension shall be increased by 1/12 of 2.5% of such monthly salary for each additional month over 20 years of service through 30 years of service, to a maximum of 75% of such monthly salary.

The changes made to this subsection (a) by this amendatory Act of the 91st General Assembly apply to all pensions that become payable under this subsection on or after January 1, 1999. All pensions payable under this subsection that began on or after January 1, 1999 and before the effective date of this amendatory Act shall be recalculated, and the amount of the increase accruing for that period shall be payable to the pensioner in a lump sum.

(b) A firefighter who retires or is separated from service having at least 10 but less than 20 years of creditable service, who is not entitled to receive a disability pension, and who did not apply for a refund of contributions at his or her last separation from service shall receive a monthly pension upon attainment of age 60 based on the monthly salary attached to his or her rank in the fire service on the date of retirement or separation from service according to the following schedule:

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For 10 years of service, 15% of salary;
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For 11 years of service, 17.6% of salary;

For 12 years of service, 20.4% of salary;

For 13 years of service, 23.4% of salary;

For 14 years of service, 26.6% of salary;

For 15 years of service, 30% of salary;

For 16 years of service, 33.6% of salary;

For 17 years of service, 37.4% of salary;

For 18 years of service, 41.4% of salary;

For 19 years of service, 45.6% of salary.

(Source: P.A. 91-466, eff. 8-6-99.)

## Increase in Pension

(40 ILCS 5/4-109.1) (from Ch. 108 1/2, par. 4-109.1)

Sec. 4-109.1. Increase in pension.

(a) Except as provided in subsection (e), the monthly pension of a firefighter who retires after July 1, 1971 and prior to January 1, 1986, shall, upon either the first of the month following the first anniversary of the date of retirement if 60 years of age or over at retirement date, or upon the first day of the month following attainment of age 60 if it occurs after the first anniversary of retirement, be increased by 2% of the originally granted monthly pension and by an additional 2% in each January thereafter. Effective January 1976, the rate of the annual increase shall be 3% of the originally granted monthly pension.

- (b) The monthly pension of a firefighter who retired from service with 20 or more years of service, on or before July 1, 1971, shall be increased, in January of the year following the year of attaining age 65 or in January 1972, if then over age 65, by 2% of the originally granted monthly pension, for each year the firefighter received pension payments. In each January thereafter, he or she shall receive an additional increase of 2% of the original monthly pension. Effective January 1976, the rate of the annual increase shall be 3%.
- (c) The monthly pension of a firefighter who is receiving a disability pension under this Article shall be increased, in January of the year following the year the firefighter attains age 60, or in January 1974, if then over age 60, by 2% of the originally granted monthly pension for each year he or she received pension payments. In each January thereafter, the firefighter shall receive an additional increase of 2% of the original monthly pension. Effective January 1976, the rate of the annual increase shall be 3%.
- (c-1) On January 1, 1998, every child's disability benefit payable on that date under Section 4-110 or 4-110.1 shall be increased by an amount equal to 1/12 of 3% of the amount of the benefit, multiplied by the number of months for which the benefit has been payable. On each January 1 thereafter, every child's disability benefit payable under Section 4-110 or 4-110.1 shall be increased by 3% of the amount of the benefit then being paid, including any previous increases received under this Article. These increases are not subject to any limitation on the maximum benefit amount included in Section 4-110 or 4-110.1.
- (c-2) On July 1, 2004, every pension payable to or on behalf of a minor or disabled surviving child that is payable on that date under Section 4-114 shall be increased by an amount equal to 1/12 of 3% of the amount of the pension, multiplied by the number of months for which the benefit has been payable. On July 1, 2005, July 1, 2006, July 1, 2007, and July 1, 2008, every pension payable to or on behalf of a minor or disabled surviving child that is payable under Section 4-114 shall be increased by 3% of the amount of the pension then being paid, including any previous increases received under this Article. These increases are not subject to any limitation on the maximum benefit amount included in Section 4-114.
- (d) The monthly pension of a firefighter who retires after January 1, 1986, shall, upon either the first of the month following the first anniversary of the date of retirement if 55 years of age or over, or upon the first day of the month following attainment of age 55 if it occurs after the first anniversary of retirement, be increased by 1/12 of 3% of the originally granted monthly pension for each full month that has elapsed since the pension began, and by an additional 3% in each January thereafter.
  - The changes made to this subsection (d) by this amendatory Act of the 91st General Assembly apply to all initial increases that become payable under this subsection on or after January 1, 1999. All initial increases that became payable under this subsection on or after January 1, 1999 and before the effective date of this amendatory Act shall be recalculated and the additional amount accruing for that period, if any, shall be payable to the pensioner in a lump sum.
- (e) Notwithstanding the provisions of subsection (a), upon the first day of the month following (1) the first anniversary of the date of retirement, or (2) the attainment of

age 55, or (3) July 1, 1987, whichever occurs latest, the monthly pension of a firefighter who retired on or after January 1, 1977 and on or before January 1, 1986 and did not receive an increase under subsection (a) before July 1, 1987, shall be increased by 3% of the originally granted monthly pension for each full year that has elapsed since the pension began, and by an additional 3% in each January thereafter. The increases provided under this subsection are in lieu of the increases provided in subsection (a).

(Source: P.A. 93-689, eff. 7-1-04.)

#### Minimum Pension

(40 ILCS 5/4-109.2) (from Ch. 108 1/2, par. 4-109.2)

Sec. 4-109.2. Minimum pension.

(a) Beginning January 1, 1984, the minimum disability pension granted under Section 4-110 or 4-111, the minimum surviving spouse's pension, and the minimum retirement pension granted to a firefighter with 20 or more years of creditable service, shall be \$300 per month, without regard to whether the death, disability or retirement of the firefighter occurred prior to that date.

Beginning July 1, 1987, the minimum retirement pension payable to a firefighter with 20 or more years of creditable service, the minimum disability pension payable under Section 4-110 or 4-111, and the minimum surviving spouse's pension shall be \$400 per month, without regard to whether the death, retirement or disability of the firefighter occurred prior to that date.

Beginning July 1, 1993, the minimum retirement pension payable to a firefighter with 20 or more years of creditable service and the minimum surviving spouse's pension shall be \$475 per month, without regard to whether the firefighter was in service on or after the effective date of this amendatory Act of 1993.

- (b) Beginning January 1, 1999, the minimum retirement pension payable to a firefighter with 20 or more years of creditable service, the minimum disability pension payable under Section 4-110, 4-110.1, or 4-111, and the minimum surviving spouse's pension shall be \$600 per month, without regard to whether the firefighter was in service on or after the effective date of this amendatory Act of the 91st General Assembly.
  - In the case of a pensioner whose pension began before the effective date of this amendatory Act and is subject to increase under this subsection (b), the pensioner shall be entitled to a lump sum payment of the amount of that increase accruing from January 1, 1999 (or the date the pension began, if later) to the effective date of this amendatory Act.
- (c) Beginning January 1, 2000, the minimum retirement pension payable to a firefighter with 20 or more years of creditable service, the minimum disability pension payable under Section 4-110, 4-110.1, or 4-111, and the minimum surviving spouse's pension shall be \$800 per month, without regard to whether the firefighter was in service on or after the effective date of this amendatory Act of the 91st General Assembly.
- (d) Beginning January 1, 2001, the minimum retirement pension payable to a firefighter with 20 or more years of creditable service, the minimum disability

- pension payable under Section 4-110, 4-110.1, or 4-111, and the minimum surviving spouse's pension shall be \$1000 per month, without regard to whether the firefighter was in service on or after the effective date of this amendatory Act of the 91st General Assembly.
- (e) Beginning July 1, 2004, the minimum retirement pension payable to a firefighter with 20 or more years of creditable service, the minimum disability pension payable under Section 4-110, 4-110.1, or 4-111, and the minimum surviving spouse's pension shall be \$1030 per month, without regard to whether the firefighter was in service on or after the effective date of this amendatory Act of the 93rd General Assembly.
- (f) Beginning July 1, 2005, the minimum retirement pension payable to a firefighter with 20 or more years of creditable service, the minimum disability pension payable under Section 4-110, 4-110.1, or 4-111, and the minimum surviving spouse's pension shall be \$1060.90 per month, without regard to whether the firefighter was in service on or after the effective date of this amendatory Act of the 93rd General Assembly.
- (g) Beginning July 1, 2006, the minimum retirement pension payable to a firefighter with 20 or more years of creditable service, the minimum disability pension payable under Section 4-110, 4-110.1, or 4-111, and the minimum surviving spouse's pension shall be \$1092.73 per month, without regard to whether the firefighter was in service on or after the effective date of this amendatory Act of the 93rd General Assembly.
- (h) Beginning July 1, 2007, the minimum retirement pension payable to a firefighter with 20 or more years of creditable service, the minimum disability pension payable under Section 4-110, 4-110.1, or 4-111, and the minimum surviving spouse's pension shall be \$1125.51 per month, without regard to whether the firefighter was in service on or after the effective date of this amendatory Act of the 93rd General Assembly.
- (i) Beginning July 1, 2008, the minimum retirement pension payable to a firefighter with 20 or more years of creditable service, the minimum disability pension payable under Section 4-110, 4-110.1, or 4-111, and the minimum surviving spouse's pension shall be \$1159.27 per month, without regard to whether the firefighter was in service on or after the effective date of this amendatory Act of the 93rd General Assembly.

(Source: P.A. 93-689, eff. 7-1-04.)

#### Employee Creditable Service

(40 ILCS 5/4-109.3)

Sec. 4-109.3. Employee creditable service.

(a) As used in this Section:

"Final monthly salary" means the monthly salary attached to the rank held by the firefighter at the time of his or her last withdrawal from service under a particular pension fund.

"Last pension fund" means the pension fund in which the firefighter was participating at the time of his or her last withdrawal from service.

(b) The benefits provided under this Section are available only to a firefighter who:

- (1) is a firefighter at the time of withdrawal from the last pension fund and for at least the final 3 years of employment prior to that withdrawal;
- (2) has established service credit with at least one pension fund established under this Article other than the last pension fund;
- (3) has a total of at least 20 years of service under the various pension funds established under this Article and has attained age 50; and
- (4) is in service on or after the effective date of this amendatory Act of the 93rd General Assembly.
- (c) A firefighter who is eligible for benefits under this Section may elect to receive a retirement pension from each pension fund under this Article in which the firefighter has at least one year of service credit but has not received a refund under Section 4-116 (unless the firefighter repays that refund under subsection (g)) or subsection (c) of Section 4-118.1, by applying in writing and paying the contribution required under subsection (i).
- (d) From each such pension fund other than the last pension fund, in lieu of any retirement pension otherwise payable under this Article, a firefighter to whom this Section applies may elect to receive a monthly pension of 1/12th of 2.5% of his or her final monthly salary under that fund for each month of service in that fund, subject to a maximum of 75% of that final monthly salary.
- (e) From the last pension fund, in lieu of any retirement pension otherwise payable under this Article, a firefighter to whom this Section applies may elect to receive a monthly pension calculated as follows:
  - The last pension fund shall calculate the retirement pension that would be payable to the firefighter under subsection (a) of Section 4-109 as if he or she had participated in that last pension fund during his or her entire period of service under all pension funds established under this Article (excluding any period of service for which the firefighter has received a refund under Section 4-116, unless the firefighter repays that refund under subsection (g), or for which the firefighter has received a refund under subsection (c) of Section 4-118.1). From this hypothetical pension there shall be subtracted the original amounts of the retirement pensions payable to the firefighter by all other pension funds under subsection (d). The remainder is the retirement pension payable to the firefighter by the last pension fund under this subsection (e).
- (f) Pensions elected under this Section shall be subject to increases as provided in subsection (d) of Section 4-109.1.
- (g) A current firefighter may reinstate creditable service in a pension fund established under this Article that was terminated upon receipt of a refund, by payment to that pension fund of the amount of the refund together with interest thereon at the rate of 6% per year, compounded annually, from the date of the refund to the date of payment. A repayment of a refund under this Section may be made in equal installments over a period of up to 10 years, but must be paid in full prior to retirement.
- (h) As a condition of being eligible for the benefits provided in this Section, a person who is hired to a position as a firefighter on or after July 1, 2004 must, within 21 months after being hired, notify the new employer, all of his or her previous employers under this Article, and the Public Pension Division of the Division of

- Insurance of the Department of Financial and Professional Regulation of his or her intent to receive the benefits provided under this Section.
- (i) In order to receive a pension under this Section or an occupational disease disability pension for which he or she becomes eligible due to the application of subsection (m) of this Section, a firefighter must pay to each pension fund from which he or she has elected to receive a pension under this Section a contribution equal to 1% of monthly salary for each month of service credit that the firefighter has in that fund (other than service credit for which the firefighter has already paid the additional contribution required under subsection (c) of Section 4-118.1), together with interest thereon at the rate of 6% per annum, compounded annually, from the firefighter's first day of employment with that fund or the first day of the fiscal year of that fund that immediately precedes the firefighter's first day of employment with that fund, whichever is earlier.

In order for a firefighter who, as of the effective date of this amendatory Act of the 93rd General Assembly, has not begun to receive a pension under this Section or an occupational disease disability pension under subsection (m) of this Section and who has contributed 1/12th of 1% of monthly salary for each month of service credit that the firefighter has in that fund (other than service credit for which the firefighter has already paid the additional contribution required under subsection (c) of Section 4-118.1), together with the required interest thereon, to receive a pension under this Section or an occupational disease disability pension for which he or she becomes eligible due to the application of subsection (m) of this Section, the firefighter must, within one year after the effective date of this amendatory Act of the 93rd General Assembly, make an additional contribution equal to 11/12ths of 1% of monthly salary for each month of service credit that the firefighter has in that fund (other than service credit for which the firefighter has already paid the additional contribution required under subsection (c) of Section 4-118.1), together with interest thereon at the rate of 6% per annum, compounded annually, from the firefighter's first day of employment with that fund or the first day of the fiscal year of that fund that immediately precedes the firefighter's first day of employment with the fund, whichever is earlier. A firefighter who, as of the effective date of this amendatory Act of the 93rd General Assembly, has not begun to receive a pension under this Section or an occupational disease disability pension under subsection (m) of this Section and who has contributed 1/12th of 1% of monthly salary for each month of service credit that the firefighter has in that fund (other than service credit for which the firefighter has already paid the additional contribution required under subsection (c) of Section 4-118.1), together with the required interest thereon, in order to receive a pension under this Section or an occupational disease disability pension under subsection (m) of this Section, may elect, within one year after the effective date of this amendatory Act of the 93rd General Assembly to forfeit the benefits provided under this Section and receive a refund of that contribution.

(j) A retired firefighter who is receiving pension payments under Section 4-109 may reenter active service under this Article. Subject to the provisions of Section 4-117, the firefighter may receive credit for service performed after the reentry if the firefighter

- (1) applies to receive credit for that service,
- (2) suspends his or her pensions under this Section, and
- (3) makes the contributions required under subsection (i).
- (k) A firefighter who is newly hired or promoted to a position as a firefighter shall not be denied participation in a fund under this Article based on his or her age.
- (l) If a firefighter who elects to make contributions under subsection (c) of Section 4-118.1 for the pension benefits provided under this Section becomes entitled to a disability pension under Section 4-110, the last pension fund is responsible to pay that disability pension and the amount of that disability pension shall be based only on the firefighter's service with the last pension fund.
- (m)Notwithstanding any provision in Section 4-110.1 to the contrary, if a firefighter who elects to make contributions under subsection (c) of Section 4-118.1 for the pension benefits provided under this Section becomes entitled to an occupational disease disability pension under Section 4-110.1, each pension fund to which the firefighter has made contributions under subsection (c) of Section 4-118.1 must pay a portion of that occupational disease disability pension equal to the proportion that the firefighter's service credit with that pension fund for which the contributions under subsection (c) of Section 4-118.1 have been made bears to the firefighter's total service credit with all of the pension funds for which the contributions under subsection (c) of Section 4-118.1 have been made. A firefighter who has made contributions under subsection (c) of Section 4-118.1 for at least 5 years of creditable service shall be deemed to have met the 5-year creditable service requirement under Section 4-110.1, regardless of whether the firefighter has 5 years of creditable service with the last pension fund.
- (n) If a firefighter who elects to make contributions under subsection (c) of Section 4-118.1 for the pension benefits provided under this Section becomes entitled to a disability pension under Section 4-111, the last pension fund is responsible to pay that disability pension, provided that the firefighter has at least 7 years of creditable service with the last pension fund.

(Source: P.A. 93-689, eff. 7-1-04; 93-1090, eff. 3-11-05.)

## Disability Pension - Line of duty

(40 ILCS 5/4-110) (from Ch. 108 1/2, par. 4-110)

Sec. 4-110. Disability pension - Line of duty. If a firefighter, as the result of sickness, accident or injury incurred in or resulting from the performance of an act of duty or from the cumulative effects of acts of duty, is found, pursuant to Section 4-112, to be physically or mentally permanently disabled for service in the fire department, so as to render necessary his or her being placed on disability pension, the firefighter shall be entitled to a disability pension equal to the greater of

- (1) 65% of the monthly salary attached to the rank held by him or her in the fire department at the date he or she is removed from the municipality's fire department payroll or
- (2) the retirement pension that the firefighter would be eligible to receive if he or she retired (but not including any automatic annual increase in that retirement pension).

A firefighter shall be considered "on duty" while on any assignment approved by the chief of the fire department, even though away from the municipality he or she serves as a firefighter, if the assignment is related to the fire protection service of the municipality.

Such firefighter shall also be entitled to a child's disability benefit of \$20 a month on account of each unmarried child less than 18 years of age and dependent upon the firefighter for support, either the issue of the firefighter or legally adopted by him or her. The total amount of child's disability benefit payable to the firefighter, when added to his or her disability pension, shall not exceed 75% of the amount of salary which the firefighter was receiving at the date of retirement.

Benefits payable on account of a child under this Section shall not be reduced or terminated by reason of the child's attainment of age 18 if he or she is then dependent by reason of a physical or mental disability but shall continue to be paid as long as such dependency continues. Individuals over the age of 18 and adjudged to be disabled persons pursuant to Article XIa of the Probate Act of 1975, except for persons receiving benefits under Article III of the Illinois Public Aid Code, shall be eligible to receive benefits under this Act.

If a firefighter dies while still disabled and receiving a disability pension under this Section, the disability pension shall continue to be paid to the firefighter's survivors in the sequence provided in Section 4-114. A pension previously granted under Section 4-114 to a survivor of a firefighter who died while receiving a disability pension under this Section shall be deemed to be a continuation of the pension provided under this Section and shall be deemed to be in the nature of worker's compensation payments. The changes to this Section made by this amendatory Act of 1995 are intended to be retroactive and are not limited to persons in service on or after its effective date.

(Source: P.A. 93-1090, eff. 3-11-05.)

#### Occupational Disease Disability Pension

(40 ILCS 5/4-110.1) (from Ch. 108 1/2, par. 4-110.1)

Sec. 4-110.1. Occupational disease disability pension. The General Assembly finds that service in the fire department requires firefighters in times of stress and danger to perform unusual tasks; that firefighters are subject to exposure to extreme heat or extreme cold in certain seasons while performing their duties; that they are required to work in the midst of and are subject to heavy smoke fumes, and carcinogenic, poisonous, toxic or chemical gases from fires; and that these conditions exist and arise out of or in the course of employment.

An active firefighter with 5 or more years of creditable service who is found, pursuant to Section 4-112, unable to perform his or her duties in the fire department by reason of heart disease, stroke, tuberculosis, or any disease of the lungs or respiratory tract, resulting from service as a firefighter, is entitled to an occupational disease disability pension during any period of such disability for which he or she has no right to receive salary.

Any active firefighter who has completed 5 or more years of service and is unable to perform his or her duties in the fire department by reason of a disabling cancer, which develops or manifests itself during a period while the firefighter is in the service of the fire department, shall be entitled to receive an occupational disease disability benefit during

any period of such disability for which he or she does not have a right to receive salary. In order to receive this occupational disease disability benefit,

- (i) the type of cancer involved must be a type which may be caused by exposure to heat, radiation or a known carcinogen as defined by the International Agency for Research on Cancer and
- (ii) the cancer must (and is rebuttably presumed to) arise as a result of service as a firefighter.

A firefighter who enters the service after August 27, 1971 shall be examined by one or more practicing physicians appointed by the board. If the examination discloses impairment of the heart, lungs or respiratory tract, or the existence of any cancer, the firefighter shall not be entitled to the occupational disease disability pension unless and until a subsequent examination reveals no such impairment or cancer.

The occupational disease disability pension shall be equal to the greater of

- (1) 65% of the salary attached to the rank held by the firefighter in the fire service at the time of his or her removal from the municipality's fire department payroll or
- (2) the retirement pension that the firefighter would be eligible to receive if he or she retired (but not including any automatic annual increase in that retirement pension).

The firefighter is also entitled to a child's disability benefit of \$20 a month for each natural or legally adopted unmarried child less than age 18 dependent upon the firefighter for support. The total child's disability benefit when added to the occupational disease disability pension shall not exceed 75% of the firefighter's salary at the time of the grant of occupational disease disability pension.

The occupational disease disability pension is payable to the firefighter during the period of the disability. If the disability ceases before the death of the firefighter, the disability pension payable under this Section shall also cease and the firefighter thereafter shall receive such pension benefits as are provided in accordance with other provisions of this Article.

If a firefighter dies while still disabled and receiving a disability pension under this Section, the disability pension shall continue to be paid to the firefighter's survivors in the sequence provided in Section 4-114. A pension previously granted under Section 4-114 to a survivor of a firefighter who died while receiving a disability pension under this Section shall be deemed to be a continuation of the pension provided under this Section and shall be deemed to be in the nature of worker's occupational disease compensation payments. The changes to this Section made by this amendatory Act of 1995 are intended to be retroactive and are not limited to persons in service on or after its effective date.

The child's disability benefit shall terminate if the disability ceases while the firefighter is alive or when the child or children attain age 18 or marry, whichever event occurs first, except that benefits payable on account of a child under this Section shall not be reduced or terminated by reason of the child's attainment of age 18 if he or she is then dependent by reason of a physical or mental disability but shall continue to be paid as long as such dependency continues. Individuals over the age of 18 and adjudged as a disabled person pursuant to Article XIa of the Probate Act of 1975, except for persons receiving benefits

under Article III of the Illinois Public Aid Code, shall be eligible to receive benefits under this Act.

(Source: P.A. 93-1090, eff. 3-11-05.)

## <u>Disability Pension - Not in Duty</u>

(40 ILCS 5/4-111) (from Ch. 108 1/2, par. 4-111)

Sec. 4-111. Disability pension - Not in duty. A firefighter having at least 7 years of creditable service who becomes disabled as a result of any cause other than an act of duty, and who is found, pursuant to Section 4-112, to be physically or mentally permanently disabled so as to render necessary his or her being placed on disability pension, shall be granted a disability pension of 50% of the monthly salary attached to the rank held by the firefighter in the fire service at the date he or she is removed from the municipality's fire department payroll. If a firefighter dies while still disabled and receiving a disability pension under this Section, the disability pension shall continue to be paid to the firefighter's survivors in the sequence provided in Section 4-114 if that disability pension is greater than the survivors pension provided under subsection (a) of Section 4-114. (Source: P.A. 93-1090, eff. 3-11-05.)

## <u>Determination of Disability - Restoration to Active Service</u>

(40 ILCS 5/4-112) (from Ch. 108 1/2, par. 4-112)

Sec. 4-112. Determination of disability - Restoration to active service. A disability pension shall not be paid until disability has been established by the board by examinations of the firefighter at pension fund expense by 3 physicians selected by the board and such other evidence as the board deems necessary. Medical examination of a firefighter receiving a disability pension shall be made at least once each year prior to attainment of age 50 in order to verify continuance of disability. No examination shall be required after age 50.

Upon satisfactory proof to the board that a firefighter on the disability pension has recovered from disability, the board shall terminate the disability pension. The firefighter shall report to the marshal or chief of the fire department, who shall thereupon order reinstatement into active service, in the same rank or grade held at the date he or she was placed on disability pension.

The firefighter shall be entitled to 10 days notice before any hearing or meeting of the board at which the question of his or her disability is to be considered, and shall have the right to be present at any such hearing or meeting, and to be represented by counsel; however, the board shall not have any obligation to provide such fireman with counsel. (Source: P.A. 83-1528.)

#### Disability Pension Option

(40 ILCS 5/4-113) (from Ch. 108 1/2, par. 4-113)

Sec. 4-113. Disability pension option.

(a) A firefighter who has not completed 20 years of creditable service and is receiving a disability pension under this Article whose disability continues for a period which when added to his or her period of active service equals 20 years may, if age 50 or over, elect to retire from the fire service by submitting written application to the board. A firefighter exercising such option shall be entitled to continue to receive a

- retirement pension equal in amount to the disability pension he or she was entitled to as a disabled firefighter on the date he or she was removed from the municipality's payroll for disability. A firefighter electing to exercise such option shall be entitled to the automatic increase in pension provided under subsection (a) of Section 4-109.1.
- (b) A firefighter who is receiving a disability pension under this Article who has sufficient creditable service to qualify for a retirement pension and is age 50 or more may elect to permanently retire from the fire service at any time by submitting written application to the board. The salary to be used in the determination of such firefighter's pension shall be based on the salary attached to the rank held by the firefighter in the fire service at the date of the election to retire. All other conditions in the computation of the pension shall be based upon the provisions of Section 4-109 which were applicable to the firefighter while he or she was in active service as an employee. A firefighter electing to exercise such option shall be entitled to the automatic increase in pension provided under subsection (a) of Section 4-109.1.

(Source: P.A. 83-1440.)

## Pension to Survivors

(40 ILCS 5/4-114) (from Ch. 108 1/2, par. 4-114)

Sec. 4-114. Pension to survivors. If a firefighter who is not receiving a disability pension under Section 4-110 or 4-110.1 dies

- (1) as a result of any illness or accident, or
- (2) from any cause while in receipt of a disability pension under this Article, or
- (3) during retirement after 20 years service, or
- (4) while vested for or in receipt of a pension payable under subsection (b) of Section 4-109, or
- (5) while a deferred pensioner, having made all required contributions, a pension shall be paid to his or her survivors, based on the monthly salary attached to the firefighter's rank on the last day of service in the fire department, as follows:
  - (a)(1) To the surviving spouse, a monthly pension of 40% of the monthly salary, and to the guardian of any minor child or children including a child which has been conceived but not yet born, 12% of such monthly salary for each such child until attainment of age 18 or until the child's marriage, whichever occurs first. Beginning July 1, 1993, the monthly pension to the surviving spouse shall be 54% of the monthly salary for all persons receiving a surviving spouse pension under this Article, regardless of whether the deceased firefighter was in service on or after the effective date of this amendatory Act of 1993.
    - (2) Beginning July 1, 2004, unless the amount provided under paragraph (1) of this subsection (a) is greater, the total monthly pension payable under this paragraph (a), including any amount payable on account of children, to the surviving spouse of a firefighter who died
      - (i) while receiving a retirement pension,
      - (ii) while he or she was a deferred pensioner with at least 20 years of creditable service, or

(iii) while he or she was in active service having at least 20 years of creditable service, regardless of age,

shall be no less than 100% of the monthly retirement pension earned by the deceased firefighter at the time of death, regardless of whether death occurs before or after attainment of age 50, including any increases under Section 4-109.1. This minimum applies to all such surviving spouses who are eligible to receive a surviving spouse pension, regardless of whether the deceased firefighter was in service on or after the effective date of this amendatory Act of the 93rd General Assembly, and notwithstanding any limitation on maximum pension under paragraph (d) or any other provision of this Article.

(3) If the pension paid on and after July 1, 2004 to the surviving spouse of a firefighter who died on or after July 1, 2004 and before the effective date of this amendatory Act of the 93rd General Assembly was less than the minimum pension payable under paragraph (1) or (2) of this subsection (a), the fund shall pay a lump sum equal to the difference within 90 days after the effective date of this amendatory Act of the 93rd General Assembly.

The pension to the surviving spouse shall terminate in the event of the surviving spouse's remarriage prior to July 1, 1993; remarriage on or after that date does not affect the surviving spouse's pension, regardless of whether the deceased firefighter was in service on or after the effective date of this amendatory Act of 1993.

The surviving spouse's pension shall be subject to the minimum established in Section 4-109.2.

- (b) Upon the death of the surviving spouse leaving one or more minor children, to the duly appointed guardian of each such child, for support and maintenance of each such child until the child reaches age 18 or marries, whichever occurs first, a monthly pension of 20% of the monthly salary.
- (c) If a deceased firefighter leaves no surviving spouse or unmarried minor children under age 18, but leaves a dependent father or mother, to each dependent parent a monthly pension of 18% of the monthly salary. To qualify for the pension, a dependent parent must furnish satisfactory proof that the deceased firefighter was at the time of his or her death the sole supporter of the parent or that the parent was the deceased's dependent for federal income tax purposes.
- (d) The total pension provided under paragraphs (a), (b) and (c) of this Section shall not exceed 75% of the monthly salary of the deceased firefighter
  - (1) when paid to the survivor of a firefighter who has attained 20 or more years of service credit and who receives or is eligible to receive a retirement pension under this Article, or
  - (2) when paid to the survivor of a firefighter who dies as a result of illness or accident, or

- (3) when paid to the survivor of a firefighter who dies from any cause while in receipt of a disability pension under this Article, or
- (4) when paid to the survivor of a deferred pensioner.

For all other survivors of deceased firefighters, the total pension provided under paragraphs (a), (b) and (c) of this Section shall not exceed 50% of the retirement annuity the firefighter would have received on the date of death.

The maximum pension limitations in this paragraph (d) do not control over any contrary provision of this Article explicitly establishing a minimum amount of pension or granting a one-time or annual increase in pension.

- (e) If a firefighter leaves no eligible survivors under paragraphs (a), (b) and (c), the board shall refund to the firefighter's estate the amount of his or her accumulated contributions, less the amount of pension payments, if any, made to the firefighter while living.
- (f) An adopted child is eligible for the pension provided under paragraph (a) if the child was adopted before the firefighter attained age 50.
- (g) If a judgment of dissolution of marriage between a firefighter and spouse is judicially set aside subsequent to the firefighter's death, the surviving spouse is eligible for the pension provided in paragraph (a) only if the judicial proceedings are filed within 2 years after the date of the dissolution of marriage and within one year after the firefighter's death and the board is made a party to the proceedings. In such case the pension shall be payable only from the date of the court's order setting aside the judgment of dissolution of marriage.
- (h) Benefits payable on account of a child under this Section shall not be reduced or terminated by reason of the child's attainment of age 18 if he or she is then dependent by reason of a physical or mental disability but shall continue to be paid as long as such dependency continues. Individuals over the age of 18 and adjudged as a disabled person pursuant to Article XIa of the Probate Act of 1975, except for persons receiving benefits under Article III of the Illinois Public Aid Code, shall be eligible to receive benefits under this Act.
- (i) Beginning January 1, 2000, the pension of the surviving spouse of a firefighter who dies on or after January 1, 1994 as a result of sickness, accident, or injury incurred in or resulting from the performance of an act of duty or from the cumulative effects of acts of duty shall not be less than 100% of the salary attached to the rank held by the deceased firefighter on the last day of service, notwithstanding subsection (d) or any other provision of this Article.
- (j) Beginning July 1, 2004, the pension of the surviving spouse of a firefighter who dies on or after January 1, 1988 as a result of sickness, accident, or injury incurred in or resulting from the performance of an act of duty or from the cumulative effects of acts of duty shall not be less than 100% of the salary attached to the rank held by the deceased firefighter on the last day of service, notwithstanding subsection (d) or any other provision of this Article.

(Source: P.A. 93-689, eff. 7-1-04; 93-1090, eff. 3-11-05.)

## Pensions to Survivors of Male and Female Firefighters

(40 ILCS 5/4-114.1) (from Ch. 108 1/2, par. 4-114.1)

Sec. 4-114.1. Pensions to survivors of male and female firefighters. All provisions of this Article relating to pensions to a surviving spouse, children or dependent parents of a firefighter apply with equal force to the surviving spouse, minor children and dependent parents of male and female firefighters without any distinction whatsoever. (Source: P.A. 83-1440.)

Reduction of Disability and Survivor's Benefits for Corresponding Benefits Payable under Workers' Compensation and Workers' Occupational Diseases Acts

(40 ILCS 5/4-114.2) (from Ch. 108 1/2, par. 4-114.2)

Sec. 4-114.2. Reduction of disability and survivor's benefits for corresponding benefits payable under Workers' Compensation and Workers' Occupational Diseases Acts.

- (a) Whenever a person is entitled to a disability or survivor's benefit under this Article and to benefits under the Workers' Compensation Act or the Workers' Occupational Diseases Act for the same injury or disease, the benefits payable under this Article shall be reduced by an amount computed in accordance with subsection (b) of this Section. There shall be no reduction, however, for any of the following: payments for medical, surgical and hospital services, non-medical remedial care and treatment rendered in accordance with a religious method of healing recognized by the laws of this State and for artificial appliances; payments made for scheduled losses for the loss of or permanent and complete or permanent and partial loss of the use of any bodily member or the body taken as a whole under subdivision (d)2 or subsection (e) of Section 8 of the Workers' Compensation Act or Section 7 of the Workers' Occupational Diseases Act; payments made for statutorily prescribed losses under subdivision (d)2 of Section 8 of the Workers' Compensation Act or Section 7 of the Workers' Occupational Diseases Act; and that portion of the payments which is utilized to pay attorneys' fees and the costs of securing the workers' compensation benefits under either the Workers' Compensation Act or Workers' Occupational Diseases Act.
- (b) The reduction prescribed by this Section shall be computed as follows:
  - (1) In the event that a person entitled to benefits under this Article incurs costs or attorneys' fees in order to establish his entitlement, the reduction prescribed by this Section shall itself be reduced by the amount of such costs and attorneys' fees.
  - (2) If the benefits deductible under this Section are stated in a weekly amount, the monthly amount for the purpose of this Section shall be 52 times the weekly amount, divided by 12.

(Source: P.A. 84-1039.)

## Marriage after Retirement

(40 ILCS 5/4-115) (from Ch. 108 1/2, par. 4-115)

Sec. 4-115. Marriage after retirement.

(a) If a firefighter marries subsequent to the date of his or her retirement with any pension under this Article, and dies less than 12 months after the marriage, a surviving spouse shall receive no pension on the death of the firefighter.

(b) Beginning January 1, 1989, this Section shall no longer disqualify the surviving spouse of a firefighter who was married to such surviving spouse for at least 12 months and died before November 18, 1985, from receiving a survivor's pension, and any such surviving spouse who is otherwise eligible under Section 4-114 shall begin to receive a surviving spouse's pension on July 1, 1989.

(Source: P.A. 86-272.)

## Eligibility of Children

(40 ILCS 5/4-115.1) (from Ch. 108 1/2, par. 4-115.1)

Sec. 4-115.1. Eligibility of children. Dependent benefits shall be paid to each natural child of a deceased firefighter, and to each child legally adopted before the firefighter attains age 50, until the child's attainment of age 18 or marriage, whichever occurs first, whether or not the death of the firefighter occurred prior to November 21, 1975.

Benefits payable to or on account of a child under this Article shall not be reduced or terminated by reason of the child's adoption by a third party after the firefighter's death.

Benefits payable to or on account of a child under this Article shall not be reduced or terminated by reason of the child's attainment of age 18 if he or she is then dependent by reason of a physical or mental disability but shall continue to be paid as long as such dependency continues. Individuals over the age of 18 and adjudged as a disabled person pursuant to Article XIa of the Probate Act of 1975, except for persons receiving benefits under Article III of the Illinois Public Aid Code, shall be eligible to receive benefits under this Act.

(Source: P.A. 90-32, eff. 6-27-97.)

#### Refund

(40 ILCS 5/4-116) (from Ch. 108 1/2, par. 4-116)

Sec. 4-116. Refund. A firefighter with less than 20 years of service who (1) resigns or is discharged, or has been involuntarily laid off for other than disciplinary reasons for more than 180 calendar days, and (2) has not received any disability pension payments, is entitled to a refund of his or her total contributions during such service. Any firefighter receiving a refund under this Section forfeits and relinquishes all accrued rights in the Fund, including accumulated creditable service. In the event of reemployment in the service, the firefighter shall, prior to commencing service repay to the fund, to the extent that the municipality has not made such contribution on his or her behalf, the amount of any refund which he or she received upon resigning or being discharged. Upon repayment of this refund, the firefighter shall receive credit for the previous years of service for which he or she had received the refund.

(Source: P.A. 84-1039.)

#### Reentry into Active Service

(40 ILCS 5/4-117) (from Ch. 108 1/2, par. 4-117)

Sec. 4-117. Reentry into active service.

(a) If a firefighter receiving pension payments reenters active service, pension payments shall be suspended while he or she is in service. If the firefighter again retires or is discharged, his or her monthly pension shall be resumed in the same

- amount as was paid upon first retirement or discharge unless he or she remained in active service 3 or more years after re-entry in which case the monthly pension shall be based on the salary attached to the firefighter's rank at the date of last retirement.
- (b) If a deferred pensioner re-enters active service, and again retires or is discharged from the fire service, his or her pension shall be based on the salary attached to the rank held in the fire service at the date of earlier retirement, unless the firefighter remains in active service for 3 or more years after re-entry, in which case the monthly pension shall be based on the salary attached to the firefighter's rank at the date of last retirement.
- (c) If a pensioner or deferred pensioner re-enters or is recalled to active service and is thereafter injured, and the injury is not related to an injury for which he or she was previously receiving a disability pension, the 3 year service requirement shall not apply in order for the firefighter to qualify for the increased pension based on the rate of pay at the time of the new injury.

(Source: P.A. 83-1440.)

## <u>Deduction for Group Plans</u>

(40 ILCS 5/4-117.1) (from Ch. 108 1/2, par. 4-117.1)

Sec. 4-117.1. Deduction for group plans. If a municipality sponsors a group hospital and medical plan which includes retired firefighters and their spouses, upon written request of a retired firefighter, deductions shall be made from the pension payments of the firefighter in the amounts which the firefighter is required to contribute toward the group plan in order to obtain such coverage.

Whenever continued group insurance coverage is elected in accordance with the provisions of Section 367f of the Illinois Insurance Code, as now or hereafter amended, the total monthly premium for such continued group insurance coverage or such portion thereof as is not paid by the municipality shall, upon request of the person electing such continued group insurance coverage, be deducted from the monthly pension otherwise payable to such person pursuant to this Article, and shall be remitted by the pension fund making such deduction to the insurance company or other entity providing the group insurance coverage.

(Source: P.A. 84-866.)

## **Financing**

(40 ILCS 5/4-118) (from Ch. 108 1/2, par. 4-118)

Sec. 4-118. Financing.

(a) The city council or the board of trustees of the municipality shall annually levy a tax upon all the taxable property of the municipality at the rate on the dollar which will produce an amount which, when added to the deductions from the salaries or wages of firefighters and revenues available from other sources, will equal a sum sufficient to meet the annual actuarial requirements of the pension fund, as determined by an enrolled actuary employed by the Illinois Department of Insurance or by an enrolled actuary retained by the pension fund or municipality. For the purposes of this Section, the annual actuarial requirements of the pension fund are equal to (1) the normal cost of the pension fund, or 17.5% of the salaries

- and wages to be paid to firefighters for the year involved, whichever is greater, plus (2) the annual amount necessary to amortize the fund's unfunded accrued liabilities over a period of 40 years from July 1, 1993, as annually updated and determined by an enrolled actuary employed by the Illinois Department of Insurance or by an enrolled actuary retained by the pension fund or the municipality. The amount to be applied towards the amortization of the unfunded accrued liability in any year shall not be less than the annual amount required to amortize the unfunded accrued liability, including interest, as a level percentage of payroll over the number of years remaining in the 40 year amortization period.
- (b) The tax shall be levied and collected in the same manner as the general taxes of the municipality, and shall be in addition to all other taxes now or hereafter authorized to be levied upon all property within the municipality, and in addition to the amount authorized to be levied for general purposes, under Section 8-3-1 of the Illinois Municipal Code or under Section 14 of the Fire Protection District Act. The tax shall be forwarded directly to the treasurer of the board within 30 business days of receipt by the municipality (or, in the case of amounts added to the tax levy under subsection (f), used by the municipality to pay the employer contributions required under subsection (b-1) of Section 15-155 of this Code).
- (c) The board shall make available to the membership and the general public for inspection and copying at reasonable times the most recent Actuarial Valuation Balance Sheet and Tax Levy Requirement issued to the fund by the Department of Insurance.
- (d) The firefighters' pension fund shall consist of the following moneys which shall be set apart by the treasurer of the municipality:
  - (1) all moneys derived from the taxes levied hereunder;
  - (2) contributions by firefighters as provided under Section 4-118.1;
  - (3) all rewards in money, fees, gifts, and emoluments that may be paid or given for or on account of extraordinary service by the fire department or any member thereof, except when allowed to be retained by competitive awards; and
  - (4) any money, real estate or personal property received by the board.
- (e) For the purposes of this Section, "enrolled actuary" means an actuary:
  - (1) who is a member of the Society of Actuaries or the American Academy of Actuaries; and
  - who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974, or who has been engaged in providing actuarial services to one or more public retirement systems for a period of at least 3 years as of July 1, 1983.
- (f) The corporate authorities of a municipality that employs a person who is described in subdivision (d) of Section 4-106 may add to the tax levy otherwise provided for in this Section an amount equal to the projected cost of the employer contributions required to be paid by the municipality to the State Universities Retirement System under subsection (b-1) of Section 15-155 of this Code.

(Source: P.A. 90-576, eff. 3-31-98.)

#### Contributions by Firefighters

(40 ILCS 5/4-118.1) (from Ch. 108 1/2, par. 4-118.1) Sec. 4-118.1. Contributions by firefighters.

- (a) Beginning January 1, 1976 and until the effective date of this amendatory Act of the 91st General Assembly, each firefighter shall contribute to the pension fund 6 3/4% of salary towards the cost of his or her pension. Beginning on the effective date of this amendatory Act of the 91st General Assembly, each firefighter shall contribute to the pension fund 6.955% of salary towards the cost of his or her pension.
- (b) In addition, beginning January 1, 1976, each firefighter shall contribute 1% of salary toward the cost of the increase in pension provided in Section 4-109.1; beginning January 1, 1987, such contribution shall be 1.5% of salary; beginning July 1, 2004, the contribution shall be 2.5% of salary.
- (c) Beginning on the effective date of this amendatory Act of the 93rd General Assembly, each firefighter who elects to receive a pension under Section 4-109.3 and who has participated in at least one other pension fund under this Article for a period of at least one year shall contribute an additional 1.0% of salary toward the cost of the increase in pensions provided in Section 4-109.3.

In the event that a firefighter does not elect to receive a retirement pension provided under Section 4-109.3 from one or more of the pension funds in which the firefighter has credit, he or she shall, upon withdrawal from the last pension fund as defined in Section 4-109.3, be entitled to receive, from each such fund to which he or she has paid additional contributions under this subsection (c) and from which he or she does not receive a refund under Section 4-116, a refund of those contributions without interest.

A refund of total contributions to a particular firefighter pension fund under Section 4-116 shall include any refund of additional contributions paid to that fund under this subsection (c), but a firefighter who accepts a refund from a pension fund under Section 4-116 is thereafter ineligible to receive a pension provided under Section 4-109.3 from that fund. A firefighter who meets the eligibility requirements of Section 4-109.3 may receive a pension under Section 4-109.3 from any pension fund from which the firefighter has not received a refund under Section 4-116 or under this subsection (c).

- (d) "Salary" means the annual salary, including longevity, attached to the firefighter's rank, as established by the municipality appropriation ordinance, including any compensation for overtime which is included in the salary so established, but excluding any "overtime pay", "holiday pay", "bonus pay", "merit pay", or any other cash benefit not included in the salary so established.
- (e) The contributions shall be deducted and withheld from the salary of firefighters. (Source: P.A. 93-689, eff. 7-1-04.)

## Pick Up of Contributions

(40 ILCS 5/4-118.2) (from Ch. 108 1/2, par. 4-118.2)

Sec. 4-118.2. Pick up of contributions. A municipality may pick up the firefighters' contributions required by Section 4-118.1 for all salary earned after December 31, 1981. If a municipality decides not to pick up the contributions, the required contributions shall

continue to be deducted from salary. If contributions are picked up, they shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code; however, the municipality shall continue to withhold Federal and State income taxes based upon these contributions until the Internal Revenue Service or the Federal courts rule that pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the firefighters until such time as they are distributed or made available. The municipality shall pay these contributions from the same source of funds which is used to pay the salaries of firefighters. The municipality may pick up these contributions by a reduction in the cash salary of the firefighters or by an offset against a future salary increase or by a combination of a reduction in salary and offset against a future salary increase. If contributions are picked up they shall be considered for all purposes of this Article as firefighters' contributions made prior to the time that contributions were picked up. (Source: P.A. 83-1440.)

## Reserves

(40 ILCS 5/4-120) (from Ch. 108 1/2, par. 4-120)

Sec. 4-120. Reserves. The board shall establish and maintain a reserve to insure the payment of all obligations incurred under this Article. The reserve to be accumulated shall be equal to the estimated total actuarial requirements of the Fund.

(Source: P.A. 83-1440.)

#### **Board Created**

(40 ILCS 5/4-121) (from Ch. 108 1/2, par. 4-121)

Sec. 4-121. Board created. There is created in each municipality a board of trustees to be known as the "Board of Trustees of the Firefighters' Pension Fund". The membership of the board for each municipality shall be, respectively, as follows: in cities, the treasurer, clerk, marshall or chief officer of the fire department, and the comptroller if there is one, or if not, the mayor; in each township, village or incorporated town, the president of the municipality's board of trustees, the village or town clerk, village or town attorney, village or town treasurer, and the chief officer of the fire department; and in each fire protection district, the president and other 2 members of its board of trustees and the marshall or chief of its fire department or service, as the case may be; and in all the municipalities above designated 3 additional persons chosen from their active firefighters and one other person who has retired under the "Firemen's Pension Fund Act of 1919", or this Article.

For the purposes of this Section, a firefighter receiving a disability pension shall be considered a retired firefighter. In the event that there are no retired firefighters under the Fund or if none is willing to serve on the board, then an additional active firefighter shall be elected to the board in lieu of the retired firefighter that would otherwise be elected.

If the regularly constituted fire department of a municipality is dissolved and Section 4-106.1 is not applicable, the board shall continue to exist and administer the Fund so long as there continues to be any annuitant or deferred pensioner in the Fund. In such cases, elections shall continue to be held as specified in this Section, except that:

(1) deferred pensioners shall be deemed to be active members for the purposes of such elections;

- (2) any otherwise unfillable positions on the board, including ex officio positions, shall be filled by election from the remaining firefighters and deferred pensioners of the Fund, to the extent possible; and
- (3) if the membership of the board falls below 3 persons, the Illinois Director of Insurance or his designee shall be deemed a member of the board, ex officio.

The members chosen from the active and retired firefighters shall be elected by ballot at elections to be held on the 3rd Monday in April of the applicable years under the Australian ballot system, at such place or places, in the municipality, and under such regulations as shall be prescribed by the board.

No person shall cast more than one vote for each candidate for whom he or she is eligible to vote. In the elections for board members to be chosen from the active firefighters, all active firefighters and no others may vote. In the elections for board members to be chosen from retired firefighters, the retired firefighters and no others may vote.

Each member of the board so elected shall hold office for a term of 3 years and until his or her successor has been duly elected and qualified.

The board shall canvass the ballots and declare which persons have been elected and for what term or terms respectively. In case of a tie vote between 2 or more candidates, the board shall determine by lot which candidate or candidates have been elected and for what term or terms respectively. In the event of the failure, resignation, or inability to act of any board member, a successor shall be elected for the unexpired term at a special election called by the board and conducted in the same manner as a regular election.

The board shall elect annually from its members a president and secretary.

Board members shall not receive or have any right to receive any salary from a pension fund for services performed as board members.

(Source: P.A. 84-1039.)

### Powers and Duties of Board

(40 ILCS 5/4-122) (from Ch. 108 1/2, par. 4-122)

Sec. 4-122. Powers and duties of board. The board shall have the powers and duties stated in Sections 4-123 through 4-129.1, in addition to the other powers and duties provided under this Article.

(Source: P.A. 83-1440.)

#### To Control and Manage the Pension Fund

(40 ILCS 5/4-123) (from Ch. 108 1/2, par. 4-123)

Sec. 4-123. To control and manage the Pension Fund. In accordance with the applicable provisions of Articles 1 and 1A and this Article, to control and manage, exclusively, the following:

- (1) the pension fund,
- (2) investment expenditures and income, including interest dividends, capital gains, and other distributions on the investments, and

(3) all money donated, paid, assessed, or provided by law for the pensioning of disabled and retired firefighters, their surviving spouses, minor children, and dependent parents.

All money received or collected shall be credited by the treasurer of the municipality to the account of the pension fund and held by the treasurer of the municipality subject to the order and control of the board. The treasurer of the municipality shall maintain a record of all money received, transferred, and held for the account of the board.

(Source: P.A. 90-507, eff. 8-22-97.)

## To Subpoena Witnesses

(40 ILCS 5/4-123.1) (from Ch. 108 1/2, par. 4-123.1)

Sec. 4-123.1. To subpoena witnesses. To compel witnesses to attend and testify before it upon all matters connected with the administration of this Article, in the manner provided by law for the taking of testimony before the circuit court. The president, or any member of the Board, may administer oaths to such witnesses.

(Source: P.A. 84-1039.)

## To Enforce Contributions

(40 ILCS 5/4-124) (from Ch. 108 1/2, par. 4-124)

Sec. 4-124. To enforce contributions. To assess each firefighter the contributions required under Section 4-118.1. The contributions deducted from salaries, together with all interest accruing thereon, shall be placed by the treasurer of the municipality as ex officio treasurer of the board, to the credit of the pension fund, subject to the order of the board.

(Source: P.A. 83-1440.)

## To Hear and Determine Applications and to Order Payments

(40 ILCS 5/4-125) (from Ch. 108 1/2, par. 4-125)

Sec. 4-125. To hear and determine applications and to order payments. To hear and decide all applications for pensions and other benefits under this Article and to order and direct the payment of pensions and other benefits. The first payment for any pension benefits shall be made not later than one month after benefits are granted. Each such subsequent payment shall be made not later than one month after the date of the latest payment. Such benefits shall not be prepaid.

(Source: P.A. 83-1440.)

#### To Make Rules

(40 ILCS 5/4-126) (from Ch. 108 1/2, par. 4-126)

Sec. 4-126. To make rules. To make all rules and regulations necessary for the discharge of its duties.

(Source: Laws 1963, p. 161.)

## To Pay Expenses

(40 ILCS 5/4-127) (from Ch. 108 1/2, par. 4-127)

Sec. 4-127. To pay expenses. To provide for the payment from the fund of all necessary expenses of the Board.

(Source: Laws 1963, p. 161.)

#### To Invest Funds

(40 ILCS 5/4-128) (from Ch. 108 1/2, par. 4-128)

Sec. 4-128. To invest funds. Beginning January 1, 1998, the board shall invest funds in accordance with Sections 1-113.1 through 1-113.10 of this Code.

(Source: P.A. 90-507, eff. 8-22-97.)

## To Keep Records

(40 ILCS 5/4-129) (from Ch. 108 1/2, par. 4-129)

Sec. 4-129. To keep records. To keep a record of all its meetings and proceedings.

(Source: Laws 1963, p. 161.)

## To Accept Donations

(40 ILCS 5/4-129.1) (from Ch. 108 1/2, par. 4-129.1)

Sec. 4-129.1. To accept donations. To accept by gift, grant, transfer or bequest, any money, real estate or personal property. Such money and the proceeds from the sale of or income from such real estate or personal property shall be paid into the pension fund.

(Source: P.A. 83-1440.)

## Treasurer of the Board

(40 ILCS 5/4-130) (from Ch. 108 1/2, par. 4-130)

Sec. 4-130. Treasurer of the Board. The treasurer of the municipality shall be the treasurer of the board and the custodian of the pension fund, and shall secure and safely keep the fund's assets, subject to the control and direction of the board. The treasurer shall keep books and accounts concerning the fund in such manner as may be prescribed by the board. The books and accounts shall be subject to the inspection of the board or any member thereof.

The treasurer, within 10 days after his or her election or appointment, shall execute a bond to the municipality, with good and sufficient securities, in such penal sums as the board shall direct, to be approved by the board, conditioned for the faithful performance of the duties of the office, and for the safekeeping and proper accounting of all moneys and property which come to the treasurer; and that on the expiration of his or her term of office all moneys and property of the fund will be turned over to his or her successor.

The bond shall be filed in the office of the clerk of the municipality or in the office of the secretary of the board of trustees of the fire protection district, as the case may be. In case of a breach of the bond, or any of its conditions, suit may be brought thereon in the name of the municipality for the use of the board, or of any person or persons injured by such breach.

(Source: P.A. 83-1440.)

#### Warrants

(40 ILCS 5/4-131) (from Ch. 108 1/2, par. 4-131)

Sec. 4-131. Warrants. The mayor or president of the board of trustees and clerk, secretary, or the comptroller, if there be one, and the officer or officers of the municipality, who are authorized by law to draw warrants upon the treasurer of the municipality, upon request made in writing by the board, shall draw such warrants, payable to the treasurer of the

board for all funds in the hands of the municipality's treasurer belonging to the pension fund.

(Source: P.A. 83-1440.)

#### Disbursements

(40 ILCS 5/4-132) (from Ch. 108 1/2, par. 4-132)

Sec. 4-132. Disbursements. Payments from the pension fund shall be made by the treasurer of the board only upon warrants signed by the president of the board and countersigned by its secretary. No warrant shall be drawn except by order of the board duly entered in the records of the board's proceedings.

(Source: P.A. 83-1440.)

## **Interest on Deposits**

(40 ILCS 5/4-133) (from Ch. 108 1/2, par. 4-133)

Sec. 4-133. Interest on deposits. If the pension fund, or any part thereof, by order of the board or otherwise, is deposited in any bank or savings and loan association, or loaned, all interest or money which is paid or agreed to be paid on the loan or deposit shall become a part of the fund. No such loan or deposit shall be made without board authorization.

No bank or savings and loan association shall receive investment funds as permitted by this Section, unless it has complied with the requirements established pursuant to Section 6 of "An Act relating to certain investments of public funds by public agencies", approved July 23, 1943, as now or hereafter amended.

(Source: P.A. 83-1440.)

### Report for Tax Levy

(40 ILCS 5/4-134) (from Ch. 108 1/2, par. 4-134)

Sec. 4-134. Report for tax levy. The board shall report to the city council or board of trustees of the municipality on the condition of the pension fund at the end of its most recently completed fiscal year. The report shall be made prior to the council or board meeting held for appropriating and levying taxes for the year for which the report is made.

The board in the report shall certify:

- (1) the assets of the fund and their current market value;
- (2) the estimated receipts during the next succeeding fiscal year from deductions from the salaries or wages of firefighters, and from all other sources;
- (3) the estimated amount necessary during the fiscal year to meet the annual actuarial requirements of the pension fund as provided in Sections 4-118 and 4-120;
- (4) the total net income received from investment of assets, compared to such income received during the preceding fiscal year; and
- (5) the increase in employer pension contributions that results from the implementation of the provisions of this amendatory Act of the 93rd General Assembly.

Before the board makes its report, the municipality shall have the assets of the fund and their current market value verified by an independent certified public accountant of its choice.

(Source: P.A. 93-689, eff. 7-1-04.)

## Benefits - Exempt

(40 ILCS 5/4-135) (from Ch. 108 1/2, par. 4-135)

Sec. 4-135. Benefits - Exempt. No portion of the pension fund shall, either before or after a board's order of distribution to any retired firefighter or his or her beneficiaries, be held, seized, taken subject to, or detained or levied on by virtue of any process, injunction interlocutory or other order or judgment, or any process or proceeding whatever issued by any court of this State, for the payment or satisfaction in whole or in part of any debt, damages, claim, demand or judgment against any firefighter or his or her beneficiaries, but the fund shall be held, secured and distributed for the purposes of pensioning such firefighter and beneficiaries and for no other purposes whatever.

(Source: P.A. 83-1440.)

#### Felony Conviction

(40 ILCS 5/4-138) (from Ch. 108 1/2, par. 4-138)

Sec. 4-138. Felony conviction. None of the benefits provided under this Article shall be paid to any person who is convicted of any felony relating to or arising out of or in connection with service as a firefighter.

This Section shall not impair any contract or vested right acquired prior to July 11, 1955 under any law continued in this Article, nor preclude the right to a refund.

All persons entering service subsequent to July 11, 1955, are deemed to have consented to the provisions of this Section as a condition of coverage.

(Source: P.A. 83-1440.)

## Administrative Review

(40 ILCS 5/4-139) (from Ch. 108 1/2, par. 4-139)

Sec. 4-139. Administrative review. The provisions of the Administrative Review Law, and all amendments and modifications thereof and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the retirement board provided for under this Article. The term "administrative decision" is as defined in Section 3-101 of the Code of Civil Procedure.

(Source: P.A. 82-783.)

## General Provisions and Savings Clause

(40 ILCS 5/4-140) (from Ch. 108 1/2, par. 4-140)

Sec. 4-140. General provisions and savings clause.

The provisions of Article 1 and Article 23 of this Code apply to this Article as though such provisions were fully set forth in this Article as a part thereof.

(Source: Laws 1963, p. 161.)

#### Referendum in Municipalities less than 5,000

(40 ILCS 5/4-141) (from Ch. 108 1/2, par. 4-141)

Sec. 4-141. Referendum in municipalities less than 5,000. This Article shall become effective in any municipality of less than 5,000, population if the proposition to adopt the Article is submitted to and approved by the voters of the municipality in the manner herein provided.

Whenever the electors of the municipality equal in number to 5% of the number of legal votes cast at the last preceding general municipal election for mayor or president, as the case may be, petition the corporate authorities of the municipality to submit the proposition whether that municipality shall adopt this Article, the municipal clerk shall certify the proposition to the proper election official who shall submit it to the electors in accordance with the general election law at the next succeeding regular election in the municipality. If the proposition is not adopted at that election, it may be submitted in like manner at any regular election thereafter.

The proposition shall be substantially in the following form:

Shall the city (or village or incorporated town as the case may be)

of. (<u>name</u>) adopt Article 4 of the
"Illinois Pension Code",

providing for a Firefighters'

NO
Pension Fund and the levying
of an annual tax therefor?

If a majority of the votes cast on the proposition is for the proposition, this Article is adopted in that municipality.

(Source: P.A. 83-1440.)

## **Applicability of Home Rule Powers**

(40 ILCS 5/4-142) (from Ch. 108 1/2, par. 4-142)

Sec. 4-142. Applicability of home rule powers. A home rule unit, as defined in Article VII of the 1970 Illinois Constitution or any amendment thereto, shall have no power to change, alter, or amend in any way the provisions of this Article. A home rule unit which is a municipality, as defined in Section 4-103, shall not provide for, singly or as a part of any plan or program, by any means whatsoever, any type of retirement or annuity benefit to a firefighter other than through establishment of a fund as provided in this Article as now or hereafter amended.

(Source: P.A. 83-1440.)

## Savings Clause

(40 ILCS 5/4-144) (from Ch. 108 1/2, par. 4-144)

Sec. 4-144. Savings clause. The repeal or amendment of any Section or provisions of this Article by this amendatory Act of 1984 shall not affect or impair any pension, benefits, rights or credits accrued or in effect prior thereto.

(Source: P.A. 83-1440.)

#### MUNICIPAL TREASURER'S REFERENCE MANUAL

# LOCAL GOVERNMENT (50 ILCS 205/) Local Records Act

#### VIII. LOCAL RECORDS ACT

SHORT TITLE

LEGISLATIVE DECLARATION

**DEFINITIONS** 

LOCAL GOVERNMENT UNITS AND SCHOOL DISTRICTS

ARREST REPORTS

PUBLIC RECORDS; DISPOSAL; DUTIES OF ARCHIVIST

ARCHIVIST AS LOCAL RECORDS ADVISOR

**LOCAL RECORDS COMMISSION** 

**DISPOSITION RULES** 

FORCE AND EFFECT OF REPRODUCTION

NONRECORD MATERIALS; DISPOSITION

RECORDS NOT HAVING ADMINISTRATIVE, LEGAL OR FISCAL VALUE

SYSTEM FOR PROTECTION AND PRESERVATION OF RECORDS;

**ESTABLISHMENT** 

RECORDS ESSENTIAL FOR EMERGENCY GOVERNMENT OPERATION;

**DETERMINATION** 

**COPIES OF RECORDS; FEES** 

APPLICATION OF THIS ACT TO UNIFORM COMMERCIAL CODE

FREEDOM OF INFORMATION ACT; APPLICATION

## **Short Title**

(50 ILCS 205/1) (from Ch. 116, par. 43.101)

Sec. 1. This Act may be cited as the Local Records Act.

(Source: P.A. 86-1475.)

## Legislative Declaration

(50 ILCS 205/2) (from Ch. 116, par. 43.102)

Sec. 2. This Act declares that a program for the efficient and economical management of local records will promote economy and efficiency in the day-by-day recordkeeping activities of local governments and will facilitate and expedite governmental operations. (Source: Laws 1961, p. 3503.)

#### **Definitions**

(50 ILCS 205/3) (from Ch. 116, par. 43.103)

Sec. 3. Except where the context indicates otherwise, the terms used in this Act are defined as follows:

"Agency" means any court, and all parts, boards, departments, bureaus and commissions of any county, municipal corporation or political subdivision.

"Archivist" means the Secretary of State.

"Commission" means a Local Records Commission.

"Court" means a court, other than the Supreme Court.

"Officer" means any elected or appointed official of a court, county, municipal corporation or political subdivision.

"Public record" means any book, paper, map, photograph, digitized electronic material, or other official documentary material, regardless of physical form or characteristics, made, produced, executed or received by any agency or officer pursuant to law or in connection with the transaction of public business and preserved or appropriate for preservation by such agency or officer, or any successor thereof, as evidence of the organization, function, policies, decisions, procedures, or other activities thereof, or because of the informational data contained therein. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of public record.

(Source: P.A. 89-272, eff. 8-10-95.)

## Local Government Units and School Districts

(50 ILCS 205/3a) (from Ch. 116, par. 43.103a)

Sec. 3a. Reports and records of the obligation, receipt and use of public funds of the units of local government and school districts, including certified audits, management letters and other audit reports made by the Auditor General, County Auditors, other officers or by certified public accountants licensed under the Illinois Public Accounting Act and presented to the corporate authorities or boards of the units of local government, are public records available for inspection by the public. These records shall be kept at the official place of business of each unit of local government and school district or at a designated place of business of the unit or district. These records shall be available for public inspection during regular office hours except when in immediate use by persons exercising official duties which require the use of those records. The person in charge of such records may require a notice in writing to be submitted 24 hours prior to inspection and may require that such notice specify which records are to be inspected. Nothing in this Section shall require units of local government and school districts to invade or assist in the invasion of any person's right to privacy.

(Source: P.A. 91-357, eff. 7-29-99.)

### Arrest Reports

(50 ILCS 205/3b)

Sec. 3b. Arrest reports.

- (a) When an individual is arrested, the following information must be made available to the news media for inspection and copying:
  - (1) Information that identifies the individual, including the name, age, address, and photograph, when and if available.
  - Information detailing any charges relating to the arrest. (2)
  - The time and location of the arrest. (3)
  - (4) The name of the investigating or arresting law enforcement agency.
  - If the individual is incarcerated, the amount of any bail or bond. (5)
  - If the individual is incarcerated, the time and date that the individual was (6) received, discharged, or transferred from the arresting agency's custody.
- (b) The information required by this Section must be made available to the news media for inspection and copying as soon as practicable, but in no event shall the time

period exceed 72 hours from the arrest. The information described in paragraphs (3), (4), (5), and (6) of subsection (a), however, may be withheld if it is determined that disclosure would:

- (1) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency;
- (2) endanger the life or physical safety of law enforcement or correctional personnel or any other person; or
- (3) compromise the security of any correctional facility.
- (c) For the purposes of this Section the term "news media" means personnel of a newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service whether in print or electronic format, a radio station, a television station, a television network, a community antenna television service, or a person or corporation engaged in making news reels or other motion picture news for public showing.
- (d) Each law enforcement or correctional agency may charge fees for arrest records, but in no instance may the fee exceed the actual cost of copying and reproduction. The fees may not include the cost of the labor used to reproduce the arrest record.
- (e) The provisions of this Section do not supersede the confidentiality provisions for arrest records of the Juvenile Court Act of 1987.

(Source: P.A. 91-309, eff. 7-29-99; 92-16, eff. 6-28-01; 92-335, eff. 8-10-01.)

## Public Records; Disposal; Duties of Archivist

(50 ILCS 205/4) (from Ch. 116, par. 43.104)

Sec. 4. All public records made or received by, or under the authority of, or coming into the custody, control or possession of any officer or agency shall not be mutilated, destroyed, transferred, removed or otherwise damaged or disposed of, in whole or in part, except as provided by law.

Court records filed with the clerks of the Circuit Court shall be destroyed in accordance with the Supreme Court's General Administrative Order on Recordkeeping in the Circuit Courts. The clerks of the Circuit Courts shall notify the Supreme Court, in writing, specifying case records or other documents which they intend to destroy. The Supreme Court shall review the schedule of items to be destroyed and notify the appropriate Local Records Commission of the Court's intent to destroy such records. The Local Records Commission, within 90 days after receipt of the Supreme Court's notice, may undertake to photograph, microphotograph, or digitize electronically any or all such records and documents, or, in the alternative, may transport such original records to the State Archives or other storage location under its supervision.

The Archivist may accept for deposit in the State Archives or regional depositories official papers, drawings, maps, writings and records of every description of counties, municipal corporations, political subdivisions and courts of this State, when such materials are deemed by the Archivist to have sufficient historical or other value to warrant their continued preservation by the State of Illinois.

The officer or clerk depositing such records may, upon request, obtain from the Archivist, without charge, a certified copy or reproduction of any specific record, paper or document when such record, paper or document is required for public use.

(Source: P.A. 89-272, eff. 8-10-95.)

### Archivist as Local Records Advisor

(50 ILCS 205/5) (from Ch. 116, par. 43.105)

Sec. 5. The Archivist shall be local records advisor and shall appoint such assistants as necessary to assist local governments in carrying out the purposes of this Act. (Source: Laws 1961, p. 3503.)

### **Local Records Commission**

(50 ILCS 205/6) (from Ch. 116, par. 43.106)

Sec. 6. For those agencies comprising counties of 3,000,000 or more inhabitants or located in or co-terminous with any such county or a majority of whose inhabitants reside in any such county, this Act shall be administered by a Local Records Commission consisting of the president of the county board of the county wherein the records are kept, the mayor of the most populous city in such county, the State's attorney of such county, the County comptroller, the State archivist, and the State historian. The president of the county board shall be the chairman of the Commission.

For all other agencies, this Act shall be administered by a Local Records Commission consisting of a chairman of a county board, who shall be chairman of the Commission, a mayor or president of a city, village or incorporated town, a county auditor, and a State's attorney, all of whom shall be appointed by the Governor, the State archivist, and the State historian.

A member of either Commission may designate a substitute.

Either Commission may employ such technical, professional and clerical assistants as are necessary.

Either Commission shall meet upon call of its chairman.

(Source: Laws 1961, p. 3503.)

### **Disposition Rules**

(50 ILCS 205/7) (from Ch. 116, par. 43.107)

Sec. 7. Disposition rules. Except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.

The Commission shall issue regulations which shall be binding on all such officers. Such regulations shall establish procedures for compiling and submitting to the Commission lists and schedules of public records proposed for disposal; procedures for the physical destruction or other disposition of such public records; and standards for the reproduction of such public records by photography, microphotographic processes, or digitized electronic format. Such standards shall relate to the quality of the film to be used, preparation of the public records for filming or electronic conversion, proper identification matter on such records so that an individual document or series of documents can be located on the film or digitized electronic form with reasonable facility, and that the copies

contain all significant record detail, to the end that the copies will be adequate. Any public record may be reproduced in a microfilm or digitized electronic format. The agency may dispose of the original of any reproduced record providing:

- (i) the reproduction process forms a durable medium that accurately and legibly reproduces the original record in all details, that does not permit additions, deletions, or changes to the original document images, and, if electronic, that are retained in a trustworthy manner so that the records, and the information contained in the records, are accessible and usable for subsequent reference at all times while the information must be retained.
- (ii) the reproduction is retained for the prescribed retention period, and
- (iii)the Commission is notified when the original record is disposed of and also when the reproduced record is disposed of.

Such regulations shall also provide that the State archivist may retain any records which the Commission has authorized to be destroyed, where they have a historical value, and that the State archivist may deposit them in the State Archives, State Historical Library, or a university library, or with a historical society, museum, or library.

(Source: P.A. 90-701, eff. 1-1-99; 91-886, eff. 1-1-01.)

## Force and Effect of Reproduction

(50 ILCS 205/8) (from Ch. 116, par. 43.108)

Sec. 8. Any such reproduction shall be deemed to be an original public record for all purposes including introduction in evidence in all courts or before administrative agencies. A transcript, exemplification or certified copy of such reproduction shall, for all purposes recited herein, be deemed to be a transcript, exemplification, or certified copy of the original public record.

(Source: Laws 1961, p. 3503.)

### Nonrecord Materials; Disposition

(50 ILCS 205/9) (from Ch. 116, par. 43.109)

Sec. 9. Nonrecord materials or materials not included within the definition of records as contained in this Act may be destroyed at any time by the agency in possession of such materials without the prior approval of the Commission. The Commission may formulate advisory procedures and interpretations to guide in the disposition of nonrecord materials. (Source: Laws 1961, p. 3503.)

### Records Not Having Administrative, Legal or Fiscal Value

(50 ILCS 205/10) (from Ch. 116, par. 43.110)

Sec. 10. The head of each agency shall submit to the appropriate Commission, in accordance with the regulations of the Commission, lists or schedules of public records in his custody that are not needed in the transaction of current business and that do not have sufficient administrative, legal or fiscal value to warrant their further preservation. The head of each agency shall also submit lists or schedules proposing the length of time each records series warrants retention for administrative, legal or fiscal purposes after it has been received by the agency. The Commission shall determine what public records have no administrative, legal, research or historical value and should be destroyed or otherwise disposed of and shall authorize destruction or other disposal thereof. No public record shall be destroyed or otherwise disposed of by any Local Records Commission on its own

initiative, nor contrary to law. This Section shall not apply to court records as governed by Section 4 of this Act.

(Source: P.A. 85-1278.)

System for Protection and Preservation of Records; Establishment

(50 ILCS 205/11) (from Ch. 116, par. 43.111)

Sec. 11. Both Commissions with the assistance of the Secretary of State and State Archivist, shall establish a system for the protection and preservation of essential local records necessary for the continuity of governmental functions in the event of emergency arising from enemy action or natural disaster and for the reestablishment of local government thereafter.

(Source: Laws 1961, p. 3503.)

## Records Essential for Emergency Government Operation; Determination

(50 ILCS 205/12) (from Ch. 116, par. 43.112)

Sec. 12. Both Commissions shall with the assistance of the Secretary of State and State Archivist determine what records are essential for emergency government operation through consultation with all branches of government, state agencies, and with the State Civilian Defense agency, to determine what records are essential for post-emergency government operation and provide for their protection and preservation and provide for the security storage or relocation of essential local records in the event of an emergency arising from enemy attack or natural disaster.

(Source: Laws 1961, p. 3503.)

## Copies of Records; Fees

(50 ILCS 205/13) (from Ch. 116, par. 43.113)

Sec. 13. In any case where public records have been reproduced by photography, microphotography or other reproductions on film, in accordance with the provisions of this Act, any person or organization shall be supplied with copies of such photographs, microphotographs, or other reproductions on film upon payment of the required fee to the officer having custody thereof. The fee required to be paid shall be the actual cost of such copies, plus a service charge of 15% of such cost.

(Source: Laws 1961, p. 3503.)

## Application of this Act to Uniform Commercial Code

(50 ILCS 205/14) (from Ch. 116, par. 43.114)

Sec. 14. Part 5 of Article 9 of the Uniform Commercial Code is subject to the provisions of this Act.

(Source: P.A. 91-893, eff. 7-1-01.)

### Freedom of Information Act; Application

(50 ILCS 205/15) (from Ch. 116, par. 43.115)

Sec. 15. Beginning July 1, 1984, the provisions of Section 3a of this Act, as it relates to inspection of records, shall apply only as to records and reports prepared or received prior to this date. Records and reports prepared or received on or after July 1, 1984, shall be covered under the provisions of "The Freedom of Information Act", approved by the 83rd General Assembly.

(Source: P.A. 83-1013.)

### LOCAL GOVERNMENT

(50 ILCS 305/) Local Government Financial Statement Act.

### IX. LOCAL GOVERNMENT FINANCIAL STATEMENT ACT

SHORT TITLE FINANCIAL STATEMENT ACT

### Short Title

(50 ILCS 305/0.01) (from Ch. 85, par. 600)

Sec. 0.01. Short title. This Act may be cited as the Local Government Financial Statement

Act.

(Source: P.A. 86-1324.)

### Financial Statement Act

(50 ILCS 305/1) (from Ch. 85, par. 601)

Sec. 1. The corporate authorities of all counties and municipal corporations and all public officers who in the discharge of their official duties receive all or any part of their funds from the County Collector or the County Treasurer and all fee officers other than city or village treasurers or municipal officers who are required to file an annual report, which report is required to be published, shall furnish as herein provided, within 60 days after January 1st and July 1st of each year a sworn, detailed and itemized statement of all receipts and expenditures of any character for the preceding 6 months and showing the names, addresses, positions and salaries of every employee of the county office or municipal corporation.

A copy of such statement shall be furnished for reference, on request, to all daily newspapers published in each city, in such county, and to the city library of each city. Copies shall also be furnished to the clerk of the circuit court or to the clerk of such municipal corporation, respectively, such copies to be kept available for inspection by persons applying therefor. The governing body of any such county or municipal corporation may direct the publication of such reports, respectively, in one or more daily newspapers respectively published therein, and the city council of cities of 300,000 or more population shall so direct the publication thereof.

Nothing in this Act shall apply to the corporate authorities or any officer of a county which has a population of more than 3,000,000.

(Source: P.A. 86-412.)

# LOCAL GOVERNMENT (50 ILCS 330/) Illinois Municipal Budget Law.

### X. ILLINOIS MUNICIPAL BUDGET LAW

TITLE OF ACT
DEFINITIONS
ADOPTION OF BUDGET AND PASSAGE OF ANNUAL APPROPRIATION
ORDINANCE REQUIRED
EFFECT ON TAX LEVY OF FAILURE TO COMPLY WITH ACT
POWERS AND DUTIES OF THE DEPARTMENT

### Title of Act

(50 ILCS 330/1) (from Ch. 85, par. 801)

Sec. 1. Title of Act. This Act may be cited as the Illinois Municipal Budget Law. (Source: P.A. 86-1475.)

### **Definitions**

(50 ILCS 330/2) (from Ch. 85, par. 802)

Sec. 2. The following terms, unless the context otherwise indicates, have the following meaning:

- (1) "Municipality" means and includes all municipal corporations and political subdivisions of this State, or any such unit or body hereafter created by authority of law, except the following:
  - (a) The State of Illinois;
  - (b) counties:
  - (c) cities, villages and incorporated towns;
  - (d) sanitary districts created under "An Act to create sanitary districts and to remove obstructions in the Des Plaines and Illinois Rivers", approved May 29, 1889, as amended;
  - (e) forest preserve districts having a population of 500,000 or more, created under "An Act to provide for the creation and management of forest preserve districts and repealing certain Acts therein named", approved June 27, 1913, as amended;
  - (f) school districts;
  - (g) the Chicago Park District created under "An Act in relation to the creation, maintenance, operation and improvement of the Chicago Park District", approved, June 10, 1933, as amended;
  - (h) park districts created under "The Park District Code", approved July 8, 1947, as amended;
  - (i) the Regional Transportation Authority created under the "Regional Transportation Authority Act", enacted by the 78th General Assembly; and
  - (j) the Illinois Sports Facilities Authority.

- (2) "Governing body" means the corporate authorities, body, or other officer of the municipality authorized by law to raise revenue, appropriate funds, or levy taxes for the operation and maintenance thereof.
- (3) "Department" means the Department of Commerce and Community Affairs. (Source: P.A. 85-1034.)

## Adoption of Budget and Passage of Annual Appropriation Ordinance Required (50 ILCS 330/3) (from Ch. 85, par. 803)

Sec. 3. The governing body of each municipality of this State, coming within the provisions of this Act, shall, within or before the first quarter of each fiscal year, adopt a combined annual budget and appropriation ordinance, by which ordinance the governing body may appropriate such sum or sums of money as may be deemed necessary to defray all necessary expenses and liabilities of such municipality, and in such annual budget and appropriation ordinance shall specify the objects and purposes for which such appropriations are made, and the amount appropriated for each object or purpose. The municipality may pass a continuing annual budget ordinance. The municipality may expend funds during the first quarter of the fiscal year before the municipality has adopted the combined annual budget and appropriation ordinance.

The budget included in such ordinance shall contain a statement of the cash on hand at the beginning of the fiscal year, an estimate of the cash expected to be received during such fiscal year from all sources, an estimate of the expenditures contemplated for such fiscal year, and a statement of the estimated cash expected to be on hand at the end of such year. The estimate of taxes to be received may be based upon the amount of actual cash receipts that may reasonably be expected by the municipality during such fiscal year, estimated from the experience of the municipality in prior years and with due regard for other circumstances that may substantially affect such receipts. Provided, however, that nothing in this Act shall be construed as requiring any municipality to change or preventing any municipality from changing from a cash basis of financing to a surplus or deficit basis of financing; or as requiring any municipality to change or preventing any municipality from changing its system of accounting.

The governing body of each municipality shall fix a fiscal year therefor. If the beginning of the fiscal year of a municipality is subsequent to the time that the tax levy for such fiscal year shall be made, then such annual budget and appropriation ordinance shall be adopted prior to the time such tax levy shall be made.

Such budget and appropriation ordinance shall be prepared in tentative form by some person or persons designated by the governing body, and in such tentative form shall be made conveniently available to public inspection for at least thirty days prior to final action thereon. Provided, that in townships such tentative ordinance for purposes other than the road and bridge fund shall be prepared by the board of town trustees. At least one public hearing shall be held as to such budget and appropriation ordinance prior to final action thereon, notice of which shall be given by publication in an English language newspaper published in such municipality, at least 30 days prior to the time of such hearing. If there is no newspaper published in such municipality, then notice of such public hearing shall be given by publication in an English language newspaper published in the county in which such municipality is located and having general circulation within such municipality. If

there is no such newspaper published in the county, notice of such public hearing shall be given by posting notices thereof in five of the most public places in such municipality. Such notice shall state the time and place where copies of the tentative budget and appropriation ordinance are available for public inspection and the time and place of the hearing. It shall be the duty of the clerk, secretary, or other similar officer, of such municipality to make such tentative budget and appropriation ordinance available to public inspection, and to arrange for such public hearing or hearings. Except as otherwise provided by law, no further appropriations shall be made at any other time within such fiscal year, provided that the governing body of such municipality may from time to time make transfers between the various items in any fund in such appropriation ordinance not exceeding in the aggregate ten per cent of the total amount appropriated in such fund by such ordinance, may transfer funds received by the taxing district as the result of an erroneous distribution of property taxes by a county treasurer back to that county treasurer without amending the budget and appropriation ordinance, and may amend such budget and appropriation ordinance from time to time by the same procedure as is herein provided for the original adoption of a budget and appropriation ordinance; provided that nothing in this section shall be construed to permit transfers between funds required by law to be kept

(Source: P.A. 89-548, eff. 1-1-97; 90-439, eff. 8-16-97.)

## Effect on Tax Levy of Failure to Comply with Act

(50 ILCS 330/4) (from Ch. 85, par. 804)

Sec. 4. The failure by any governing body of any municipality to adopt an annual budget and appropriation ordinance, or to comply in any respect with the provisions of this Act, shall not affect the validity of any tax levy of any such municipality, otherwise in conformity with the law.

(Source: Laws 1943, vol. 1, p. 1060.)

## Powers and Duties of the Department

(50 ILCS 330/5) (from Ch. 85, par. 805)

Sec. 5. The Department has the following powers and duties:

- (1) To formulate and approve forms, procedure and regulations for the budgets and appropriation ordinances, provided, however, that no municipality shall be compelled to adopt or use such forms, procedure, or regulations. Simplified and condensed forms shall be provided for small municipalities. In connection therewith, to appoint a committee to assist in devising the proper forms, procedure and regulations for the carrying out of the purposes of this Act. The members of such committee shall serve without salary for any duties herein imposed, except that necessary expenses incurred by such members shall be paid by the State. The committee shall meet at the call of the Director of the Department who shall also serve as chairman of such committee.
- (2) To collect copies of budgets and appropriation and tax levying ordinances and other pertinent information with respect thereto from each municipality of this State and, with respect thereto, to publish annually a statistical summary, comparison and forecast of municipal revenue, expenditures, financial condition, services furnished

- and costs for each revenue producing project, enterprise or undertaking, and other pertinent data of such municipalities.
- (3) To advise and assist the officers or governing body of any municipality with respect to their budget procedure and accounting practices, and in the formulation and installation of such books, records, system of accounts or other forms as may be required to comply with the provisions of this Act, and to conduct training schools for municipal officers.
- (4) To publish from time to time pamphlets relating to budgetary procedure or similar topics.
- (5) To make all needful rules and regulations as it may deem necessary to carry this Act into full force and effect.
- (6) To confer with various state and municipal officials, or to take such other actions, as may be reasonably required to carry out the purposes of this Act, provided, that no compulsion or restraint may be exercised against municipalities or their officials in the enforcement of this Act.

(Source: Laws 1945, p. 1218.)

# LOCAL GOVERNMENT (50 ILCS 340/) Investment of Municipal Funds Act.

### XI. INVESTMENT OF MUNICIPAL FUNDS ACT

SHORT TITLE
SURPLUS OF COUNTIES, PARK DISTRICT, SANITARY DISTRICT OR OTHER
MUNICIPAL CORPORATION
RESALE OR ISSUANCE OF NEW TAX ANTICIPATION WARRANTS

### Short Title

(50 ILCS 340/0.01) (from Ch. 146 1/2, par. 3.01)

Sec. 0.01. Short title. This Act may be cited as the Investment of Municipal Funds Act. (Source: P.A. 86-1324.)

<u>Surplus of Counties, Park District, Sanitary District or other Municipal Corporation</u> (50 ILCS 340/1) (from Ch. 146 1/2, par. 3.1)

Sec. 1. Every county, park district, sanitary district, or other municipal corporation, holding in its treasury funds which are set aside for use for particular purposes, including any funds that are disbursed to a county or municipality as their share of the taxes collected under the "Motor Fuel Tax Law", but which are not immediately necessary for those purposes, by ordinance, may use those funds, or any of them, in the purchase of tax anticipation warrants issued by the county, park district, sanitary district, or other municipal corporation possessing the funds against taxes levied by that county, park district, sanitary district, or other municipal corporation. These warrants shall bear interest not to exceed four percent annually. All interest upon these warrants, and all money paid in redemption of these warrants, or received from the resale thereof, shall at once be credited to and placed in the particular fund used to purchase the specified warrants. Likewise, every county, park district, sanitary district, or other municipal corporation, by resolution or ordinance may use the money in the specified funds in the purchase of municipal bonds issued by the county, park district, sanitary district, or other municipal corporation, possessing the funds and representing an obligation and pledging the credit of that county, park district, sanitary district, or other municipal corporation, or bonds and other interest bearing obligations of the United States, of the State of Illinois, or of any other state or of any political subdivision or agency of the State of Illinois or of any other state, whether the interest earned thereon is taxable or tax-exempt under federal law, including savings accounts and savings certificates of deposit of any State or National Bank if such accounts and certificates are fully insured by the Federal Deposit Insurance Corporation, withdrawable capital accounts or deposits of State or federal chartered savings and loan associations which are fully insured by the Federal Savings and Loan Insurance Corporation, or treasury notes and other securities issued by agencies of the United States. All interest upon these bonds or obligations and all money paid in redemption of these bonds or obligations or realized from the sale thereof, if afterwards sold, shall at once be

credited to and placed in the particular fund used to purchase the specified bonds or obligations.

No bank or savings and loan association shall receive public funds as permitted by this Section, unless it has complied with the requirements established pursuant to Section 6 of "An Act relating to certain investments of public funds by public agencies", approved July 23, 1943, as now or hereafter amended.

This amendatory Act of 1975 is not a limit on any home rule unit. (Source: P.A. 93-360, eff. 7-24-03.)

## Resale or Issuance of New Tax Anticipation Warrants

(50 ILCS 340/2) (from Ch. 146 1/2, par. 3.2)

Sec. 2. If at any time it is deemed expedient to convert into money any tax anticipation warrants theretofore issued and purchased with public funds pursuant to the provisions of Section 1 of this Act, before receipt of the taxes in anticipation of which the warrants were issued, the governing body of the county, park district, sanitary district, or other municipal corporation, by ordinance or resolution, may authorize a resale of such warrants and adjust the interest rate thereon or may authorize the issuance and sale of a like principal amount of any warrants for the same purpose and in anticipation of the same taxes as the original warrants were issued. These new warrants may have any date subsequent to the date of the original tax anticipation warrants. The new tax anticipation warrants shall be of the denomination and shall bear interest at the rate, not to exceed the statutory rate, that is authorized by the ordinance or resolution specified in this section.

Simultaneously with the delivery of these new tax anticipation warrants a like principal amount of the original warrants that were issued against the same tax that is anticipated by the new warrants shall be paid and cancelled. The proceeds of the sale of these new tax anticipation warrants shall be used first to restore to the fund or funds so invested in the original tax anticipation warrants, money equivalent to the par value and accrued interest of the original tax anticipation warrants and the balance, if any, shall revert to the fund for the creation of which the tax so anticipated was levied.

When tax anticipation warrants are reissued they shall bear the index numerical designation of the original warrants and shall be subnumbered consecutively in the order of reissuance, and shall be paid in the direct order of reissuance, beginning with the earliest subnumber.

In determining the priority of payment of more than one series of tax anticipation warrants against the collection of the same tax the various series shall be treated as having been issued on the date of the original issue of each series of warrants. The series prior in point of time as thus determined shall be paid first.

This Act shall not apply to cities, villages, and incorporated towns. (Source: Laws 1941, vol. 2, p. 473.)

### LOCAL GOVERNMENT

(50 ILCS 345/) Local Government Acceptance of Credit Cards Act.

### XII. LOCAL GOVERNMENT ACCEPTANCE OF CREDIT CARDS ACT

SHORT TITLE

**DEFINITIONS** 

LOCAL GOVERNMENT CREDIT CARD ACCEPTANCE PROGRAM

ELECTION BY LOCAL GOVERNMENTAL ENTITIES TO ACCEPT CREDIT

**CARDS** 

PAYMENT OF FEES BY CARDHOLDERS

RELIEF FROM UNDERLYING OBLIGATION

LIABILITY OF LOCAL GOVERNMENTAL EMPLOYEES

**EFFECTIVE DATE** 

### Short Title

(50 ILCS 345/1)

Sec. 1. Short title. This Act may be cited as the Local Governmental Acceptance of Credit Cards Act.

(Source: P.A. 90-518, eff. 8-22-97.)

### **Definitions**

(50 ILCS 345/10)

Sec. 10. Definitions.

"Authorized obligation" means, in connection with a county, city, town, or other similar form of local municipal government, any fine, fee, charge, tax, or cost imposed by, owing to, or collected by or on behalf of a unit of local government. In connection with a community college district, "authorized obligation" means tuition costs, books, charges for meals, and other education or college-related fines, fees, charges, or costs imposed upon or incurred by students or pupils.

"Credit card" means an instrument or device, whether known as a credit card, bank card, charge card, debit card, automated teller machine card, secured credit card, smart card, electronic purse, prepaid card, affinity card, or by any other name, issued with or without fee by an issuer for the use of the holder to obtain credit, money, goods, services, or anything else of value.

(Source: P.A. 90-518, eff. 8-22-97.)

### Local Government Credit Card Acceptance Program

(50 ILCS 345/15)

Sec. 15. Local government credit card acceptance program.

(a) Any unit of local government and any community college district that has the authority to accept the payment of funds for any purpose is authorized, but not required, to accept payment by credit card.

- (b) This Act shall be broadly construed to authorize, but not require, acceptance of credit card payments by all units of local government and community college districts.
- (c) This Act authorizes the acceptance of credit card payments for all types of authorized obligations.
- (d) This Act does not limit the authority of clerks of court to accept payment by credit card pursuant to the Clerks of Court Act or the Unified Code of Corrections.
- (e) A local governmental entity may not receive and retain, directly or indirectly, any convenience fee, surcharge, or other fee in excess of the amount paid in connection with the credit card transaction. In addition, a financial institution or service provider may not pay, refund, rebate, or return, directly or indirectly, to a local governmental entity for final retention any portion of a surcharge, convenience fee, or other fee paid in connection with a credit card transaction.

(Source: P.A. 90-518, eff. 8-22-97.)

## Election by Local Governmental Entities to Accept Credit Cards (50 ILCS 345/20)

Sec. 20. Election by local governmental entities to accept credit cards.

- (a) The decision whether to accept credit card payments for any particular type of obligation shall be made by the governing body of the local governmental entity that has general discretionary authority over the manner of acceptance of payments. The governing body may adopt reasonable rules governing the manner of acceptance of payments by credit card. No decision to accept credit card payments under this Act shall be made until the governing body has determined, following a public hearing held not sooner than 10 nor later than 30 days following public notice of the hearing, that the acceptance of credit card payments for the types of authorized obligations specified in the public notice is in the best interests of the citizens and governmental administration of the local governmental entity or community college and of the students and taxpayers thereof.
- (b) The governing body of the entity accepting payment by credit card may enter into agreements with one or more financial institutions or other service providers to facilitate the acceptance and processing of credit card payments. Such agreements shall identify the specific services to be provided, an itemized list of the fees charged, and the means by which each such fee shall be paid. Such agreements may include a discount fee to cover the costs of interchange, assessments and authorizations, a per item processing fee for the service provider, and any other fee, including a payment of a surcharge or convenience fee, that may be applicable to specific circumstances. Any agreement for acceptance of payments by credit cards may be canceled by the governmental entity upon giving reasonable notice of intent to cancel.
- (c) An entity accepting payments by credit card may pay amounts due a financial institution or other service provider by (i) paying the financial institution or other service provider upon presentation of an invoice or (ii) allowing the financial institution or other service provider to withhold the amount of the fees from the credit card payment. A discount or processing fee may be authorized whenever the governing body of the entity determines that any reduction of revenue resulting

from the discount or processing fee will be in the best interest of the entity. Items that may be considered in making a determination to authorize the payment of fees or the acceptance of a discount include, but are not limited to, improved governmental cash flows, reduction of governmental overhead, improved governmental financial security, a combination of these items, and the benefit of increased public convenience. No payment to or withheld by a financial institution or other service provider may exceed the amounts authorized under subsection (b) of Section 25.

(d) Unless specifically prohibited by an ordinance or rule adopted by the governing body of the local governmental entity, a person may pay multiple tax bills in a single transaction.

(Source: P.A. 90-518, eff. 8-22-97.)

### Payment of Fees by Cardholders

(50 ILCS 345/25)

Sec. 25. Payment of fees by cardholders.

- (a) The governing body of a local governmental entity authorizing acceptance of payment by credit card may, but is not required to, impose a convenience fee or surcharge upon a cardholder making payment by credit card in an amount to wholly or partially offset, but in no event exceed, the amount of any discount or processing fee incurred by the local governmental entity. This convenience fee or surcharge may be applied only when allowed under the operating rules and regulations of the credit card involved. When a cardholder elects to make a payment by credit card to a local governmental entity and a convenience fee or surcharge is imposed, the payment of the convenience fee or surcharge shall be deemed voluntary by the person and shall not be refundable.
- (b) No fee, or accumulation of fees, that exceeds the lesser of \$20 or 5% of the principal amount charged may be imposed in connection with the issuance of any license, sticker, or permit, or with respect to any other similar transaction. No fee, or accumulation of fees, that exceeds the lesser of \$5 or 5% of the transaction involved may be imposed in connection with the payment of any fine. No fee, or accumulation of fees, in excess of the lesser of \$40 or 3% of the principal amount charged may be imposed in connection with the payment of any real estate or other tax.
- (c) Notwithstanding the provisions of subsection (b), a minimum fee of \$1 may be imposed with respect to any transaction.

Notwithstanding the provisions of subsection (b), a fee in excess of the limits in subsection (b) may be imposed by a local governmental entity on a transaction if (i) the fee imposed by the local governmental entity is no greater than a fee charged by the financial institution or service provider accepting and processing credit card payments on behalf of the local governmental entity; (ii) the financial institution or service provider accepting and processing the credit card payments was selected by competitive bid and, when applicable, in accordance with the provisions of the Illinois Procurement Code; and (iii) the local governmental entity fully discloses the amount of the fee to the cardholder. (Source: P.A. 92-114, eff. 1-1-02.)

## Relief from Underlying Obligation

(50 ILCS 345/30)

Sec. 30. Relief from underlying obligation. A person who makes a payment by credit card to a local governmental entity shall not be relieved from liability for the underlying obligation except to the extent that the local governmental entity realizes final payment of the underlying obligation in cash or the equivalent. If final payment is not made by the credit card issuer or other guarantor of payment in the credit card transaction, then the underlying obligation shall survive and the local governmental entity shall retain all remedies for enforcement that would have applied if the credit card transaction had not occurred. A person making payment by credit card is not liable for any discount or fee paid to a credit card issuer or other party by a local governmental entity.

(Source: P.A. 90-518, eff. 8-22-97.)

## **Liability of Local Governmental Employees**

(50 ILCS 345/35)

Sec. 35. Liability of local governmental employees. A local governmental employee who accepts payment by credit card in accordance with this Act and any applicable rules shall not incur personal liability for the final collection of the payment.

(Source: P.A. 90-518, eff. 8-22-97.)

### Effective Date

(50 ILCS 345/99)

Sec. 99. Effective date. This Act takes effect upon becoming law.